

## PART 3 – RULES GOVERNING HOW THE COUNCIL OPERATES

### 6. Finance and Contract Procedure Rules

#### 1 Introduction

- 1.1 Section 1 of the Constitution contains an overview of the main components of the council and how they relate to each other. It explains how the decisions that the council has to make are either made by all of the elected Members acting together (“**Council**”), by the Cabinet (or individual Cabinet Members), by committees or by Officers.
- 1.2 Section 2 explains the council’s core objective in decision making and sets out the principles of decision making that all Members and Officers must observe. The rest of the Constitution sets out various rules about who is authorised to take different types of decisions and how they should be taken and recorded.
- 1.3 Whenever a decision is taken it will generally have a financial implication in terms of either a cost or a saving for the council. These Finance and Contract Procedure Rules (“**the Rules**”) provide the framework for managing those implications and setting out who is authorised to make decisions which have different types of financial implications.
- 1.4 The Rules apply to every Member and Officer of the council and anyone acting on the council’s behalf. These rules sit alongside all of the rules, codes, protocols and principles contained in or made under the Constitution. All decision makers need to ensure that they are not only empowered under the Constitution to make every decision that they propose to make, but that they are also authorised under these Rules to incur the financial implications of every decision that they make.
- 1.5 All Members and Officers are under a duty to ensure the security of resources under their control, and to ensure that the use of resources is lawful, properly authorised, provides value for money and achieves best value. Failure to comply with the Rules may lead to disciplinary action, even legal action, or

may amount to a criminal offence so Officers should always seek advice if they are in any doubt about any aspects of the Rules.

## **2 Overview of Roles and Responsibilities for Financial Management**

- 2.1 The Constitution sets out in detail the arrangements Council has put in place for decisions to be taken by Members and Officers. The Finance and Contract Procedure Rules apply to the financial implications of all decisions taken under those arrangements. It is important that all decision makers are familiar with the provisions in the Constitution and under these Rules which authorise them to make decisions.
- 2.2 The following is a “high level” summary of the decision making arrangements contained in the Constitution:-
- (a) Council. Council adopts the Budget and Policy Framework. It also is responsible for discharging a number of functions it has “reserved” for itself. Council has also constituted a number of committees which discharge delegated powers. Section 2 of the Constitution contains information about the roles and responsibilities of Council and its committees.
  - (b) The Cabinet. The Cabinet is responsible for proposing the Budget and Policy Framework to Council. Once approved, the Cabinet is responsible for taking all the necessary steps to implement it. The Cabinet operates collectively, and through individual Cabinet Members. Section 2 of the Constitution contains information about the roles and responsibilities of the Cabinet and individual Cabinet Members.
  - (c) Officers. Officers are responsible for the vast majority of day to day operational decisions under powers delegated to them by both Council and the Cabinet. In addition there are certain specified officers (“**Statutory**” and “**Proper Officers**”) who are responsible for discharging certain specified functions. Section 2 of the Constitution contains more information about the roles and responsibilities of Officers.

### **The Chief Finance Officer (Section 151 Officer)**

- 2.3 The Council’s Chief Operating Officer is the Chief Finance (S151) Officer and is the ‘responsible financial officer’ under the Accounts and Audit Regulations. He

or she is responsible for the proper administration of the Council's affairs as specified in, and undertaking the duties required by Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government Act 2003 and all other relevant legislation.

- 2.4 Section 114 of the 1988 Act requires the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally. The designated deputy for this purpose is the Director of Finance. Whilst the Chief Finance Officer is the responsible financial officer, a number of decisions within the Finance and Contract Procedure Rules are delegated to the Director of Finance.

### **Finance and Contract Procedure Rules**

- 3.1 The Finance and Contract Procedure Rules form part of a series of documents that must be followed to ensure effective financial management.
- 3.2 Council approves and adopts these Finance and Contract Procedure Rules which are contained within the Constitution. These Rules provide a framework for managing the Council's financial affairs, and the financial implications of decisions made under the delegation arrangements set out in the Constitution. These Rules apply to everyone who makes decisions for the Council or on its behalf.
- 3.3 The Rules set out the financial limits which Members and Officers must operate within. Directors also set out Service Schemes of Financial Delegation which further clarify the authorisation limits for Officers within their services.
- 3.4 The Chief Finance Officer is responsible for keeping the Rules under review, issuing any advice or guidance, making minor amendments, or recommending significant amendments to Council as and when required.
- 3.5 The Chief Finance Officer is also responsible for reporting breaches of the Rules to Full Council and/or the Cabinet.
- 3.6 Chief Officers are responsible for ensuring that all Officers in their departments are aware of the requirements of the Rules (and any associated guidance) and comply with them at all times.
- 3.7 It is not possible for these Rules to cover every eventuality that may arise. In the case of any doubt, advice should always be taken and the spirit of the Rules should always be followed.

## **Financial Management**

### **In this Section:-**

A1	Why is Financial Management Important?
A2	What's covered in this Section?
A3	Budgeting Overview
A4	Budget Management Framework
A5	Revenue Budget changes (supplementary revenue estimates and virements)
A6	Funding budget changes (supplementary revenue estimates) from General Reserves
A7	Creation and Use of Earmarked Reserves
A8	Use of Contingency Provisions
A9	Capital Budget changes (supplementary capital estimates and virements)
A10	Administrative changes to revenue budgets
A11	Year End Revenue and Capital Carry Forwards
A12	Accounting Policies and Statement of Accounts

## **A1 Why is Financial Management Important?**

A1.1 Financial management is essential to ensure that public funds are kept secure and used properly to best effect. This section explains who is accountable for the proper financial management of the Council.

## **A2 What's covered in this Section?**

A2.1 This section contains an overview of the process for approving changes to the Council's budget, including:

- (a) when Director and/or Member approval is required;
- (b) what can be approved within service Schemes of Financial Delegation;
- (c) accounting policies and statement of accounts.

## **A3 Budgeting Overview**

A3.1 In February each year, Council sets a budget for the following financial year. Inevitably in a large and complex organisation, changes will need to be made to this approved budget during the year. To ensure that there is appropriate approval and control over these changes, the Council operates two main approaches. These are:

- (a) Changes that have a material financial or policy impact will generally require the approval of Chief Officers and/or Members. The type and level of approval required will depend on the nature of the proposed changes and the source of funding. Specific guidance on the approval process is set out below.
- (b) Changes which are essentially of an administrative nature can generally be approved by officers at or below Director Level. The approval limits for individual officers are set out in each Service's Scheme of Financial Delegation. This should be reviewed on an annual basis and published on the intranet. Further details about Service Schemes of Financial Delegation are set out in section A10 below.

## **A4 Budget Management Framework**

A4.1 The Director of Finance is responsible for establishing an appropriate framework of budget management and controls that ensures that:-

- (a) budget management is exercised within the annual budget, unless Council agrees otherwise;
- (b) each Director has timely information available on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
- (c) expenditure is committed only against an approved budget;
- (d) all officers responsible for committing expenditure comply with relevant guidance, including the Finance and Contract Procedure Rules;
- (e) Each cost centre has a single named manager, determined by the relevant Director and set out in each Service Scheme of Financial Delegation; and
- (f) significant variances from approved budgets are investigated and reported by budget managers regularly.

A4.2 Directors are responsible for maintaining budgetary control within their departments, in adherence to the principles set out in this document, and in particular:-

- (a) to ensure that all income and expenditure are properly recorded and accounted for;
- (b) to ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Director (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure;
- (c) To ensure that spending remains within the service's overall approved budget, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast;

- (d) to ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget;
- (e) to ensure prior approval at the appropriate level for new proposals that create financial commitments in future years, change existing policies, initiate new policies or materially extend or reduce the council's services;
- (f) to agree with the relevant Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Director's level of service activity;
- (g) to ensure Schemes of Financial Delegation are maintained for each service;
- (h) to ensure value for money is obtained in service delivery;
- (i) to ensure that resources are used only for the purposes for which they were intended;
- (j) to prepare regular reports in the approved format on overall financial and non-financial performance and progress against service plan targets (as part of the Council Plan), and for submitting these to the Cabinet, collectively and individually, and the Scrutiny Committee after consulting the relevant Departmental Finance Manager in accordance with agreed procedures.

**A4.3 The key reporting stages are:**

- (a) approval of the service plan and Performance Management Framework, including budget statement and performance targets;
- (b) approval of projects through the capital governance process for inclusion in the Capital Programme;
- (c) quarterly reviews of revenue and capital expenditure. Final outturn reports for both revenue and capital expenditure, including full post-implementation review, on all major capital schemes completed during the year.

A4.4 In addition, the reports will be specifically required to give details in respect of the following:-

- (a) potential overspends and proposed remedial action, including any impact on future year's budgets which may need consideration in the ongoing Medium Term Financial Strategy;
- (b) amendments to approved budgets such as supplementary revenue estimates and capital budget increases or decreases where Member approval is required; and
- (c) write off of bad debts or assets where Member approval is required.

**A5 Budget Changes (supplementary revenue estimates and virements) that represent a change to approved policies / increase in expenditure.**

A5.1 Where services wish to undertake an activity not originally identified in the approved budget, or there is an overall increase in the cash income or expenditure of the Council where this is fully funded, approval must be sought for a supplementary revenue estimate or a virement.

A5.2 The level of approval required will depend on the source and level of funding.

A5.3 Where funding is received from Central Government for a ringfenced purpose, approval is only required from the Director of Finance regardless of value.

A5.4 Where funding is received as the result of a bidding process, approval will be in line with the approval process for external funding bids, set out in section F.

A5.5 Where the source of funding does not include general reserves, earmarked reserves contingency provisions or grant funding, the approval levels are as follows:

Approver	Approval Limit
Directors	Up to £100,000
Directors in consultation with relevant Cabinet Members	£100,001 to £250,000
Cabinet Member Legal and Finance	£250,001 to £500,000
Cabinet	£500,001 to £1m
Council	Over £1m

**A6 Funding budget changes (supplementary revenue estimates) from General reserves**



- A6.1 Supplementary revenue estimates which are to be funded wholly or in part from general reserves, regardless of value, must be approved by Council. Council approval is also required where there are significant implications (as determined by the Director of Finance) for future years' budgets.

<b>Approver</b>	<b>Approval Limit</b>
Council	All values

## **A7 Creation and Use of Earmarked Reserves**

- A7.1 Earmarked reserves are set up for specific purposes and/or are held for technical or statutory reasons. Examples of technical and statutory reserves include:

- Insurance reserve
- Housing Revenue Account reserves,
- Dedicated Schools Grant reserve

- A7.2 Where the use of reserves is for the purpose already agreed and /or budgeted, or where the transfer or use is technical or statutory in nature, approval is only required from the Director of Finance for any value.

- A7.3 For the creation of a new earmarked reserve (not technical or statutory), or for the use of a reserve for a different purpose than originally agreed, the approval levels are as follows:

<b>Approver</b>	<b>Approval Limit</b>
Director of Finance	Up to £250,000
Director of Finance in consultation with the Cabinet Member Legal and Finance	£250,001 to £500,000
Cabinet	£500,001 to £1m
Council	Over £1m

- A7.4 The Director of Finance will review all earmarked reserves on an annual basis and where the earmarked reserve is no longer required these will be released into the Council's General Fund.

## **A8 Use of Contingency Provisions**

- A8.1 Contingency budgets are set aside for specific purposes e.g. pay and inflation, redundancy etc. as well as general contingency provision.

- A8.2 Where the use of contingencies is for the purpose approved as part of the overall Council budget, only approval of the Director of Finance is required for any value.

- A8.3 Approval limits for the use of general contingency are as follows:

<b>Approver</b>	<b>Approval Limit</b>
Director of Finance	Up to £500,000
Cabinet Member Legal and Finance	£500,001 to £1m
Cabinet	Over £1m

## **A9 Capital Budget Changes (Supplementary capital estimates and virements)**

A9.1 The Council's approved capital programme comprises two component parts:

- Approved schemes – specific schemes approved for delivery as part of the capital programme approval
- Schemes under development – funding for these schemes is set aside as part of the capital programme approval but delivery is subject to the confirmation of a number of factors, including timescales and costs. Business case approval is also required in order for the schemes to be included in the approved programme.

### Transfers between approved schemes

A9.2 The approval required to transfer funding between specific approved schemes is as follows:

<b>Approver</b>	<b>Approval Limit</b>
Director of Finance	Up to £500,000
Director of Finance in consultation with Cabinet Member Legal and Finance and relevant Cabinet Member	Over £500,000 up to £1m
Cabinet	Over £1m

A9.3 Any significant adjustments of this nature will be reported to Members on a quarterly basis as part of the review of performance reporting.

### New Schemes and Schemes Under Development

A9.4 Any new schemes or schemes under development to be added to the approved programme in year will need to follow the existing governance process and will require business case approval from the Director of Finance and Cabinet Member for Legal & Finance, regardless of value or source of funding.

A9.5 For new schemes, appropriate approval is required to add the scheme to the approved programme before it can commence. The level of approval required for adding a new scheme to the programme will depend on the source of

funding.

- A9.6 Where new schemes are fully funded from grant received for a specific ringfenced purpose, approval is only required from the Director of Finance regardless of value.
- A9.7 Where funding is received as the result of a bidding process, approval will be in line with the approval process for external funding bids, as set out in section F.
- A9.8 Where the funding does not include the use of additional Council resources (which includes borrowing, capital receipts and capital reserves) the approval limits are as follows:

<b>Approver</b>	<b>Approval Limit</b>
Directors in consultation with Director of Finance	Up to £100,000
Directors in consultation with Director of Finance and relevant Cabinet Members	£100,001 to £250,000
Cabinet Member Legal and Finance	£250,001 to £500,000
Cabinet	£500,001 to £1m
Council	Over £1m

- A9.9 Increases to existing schemes will also be subject to the approvals set out in paragraphs 9.6, 9.7 and 9.8.
- A9.10 Where new schemes or increases to existing schemes result in an increase to the overall approved Council funding within the capital programme, i.e. increase in the use of reserves (which includes the capital reserve), borrowing and capital receipts, Council approval is required irrespective of value. Council approval is also required where there are significant implications (as determined by the Director of Finance) for future years.

<b>Approver</b>	<b>Approval Limit</b>
Council	All values

- A9.11 Where services wish to reduce the size of a capital scheme as a result of a third party decision to withdraw external funding this is considered to be administrative adjustment and no formal approval is needed.

## **A10 Administrative changes to revenue budgets**

- A10.1 Each service will operate a Service Scheme of Financial Delegation governing which officers in each service can make decisions with certain financial implications. Service Schemes of Financial Delegation will include a section on

approval of financial and budget transactions.

A10.2 Some revenue virements are essentially of an administrative nature as they do not involve a change from existing approved policies. Administrative virements would include the following examples:-

- (a) re-analysis of school “one-line” budgets;
- (b) implementation of restructuring and reorganisation proposals that have already received the appropriate level of officer and member approval;
- (c) routine changes to the structure of the chart of accounts;
- (d) changes to notional accounting budgets which are required for reporting purposes but which do not impact on the Councils cash expenditure. Examples include changes to the depreciation and deferred grants budget.

A10.3 Where the virement is of an administrative nature, Member approval is not required and therefore approval will be based on the Service Scheme of Financial Delegation. The relevant Departmental Finance Manager should be consulted where there is uncertainty as to whether a proposed virement constitutes a change of approved policy.

## **A11 Year End Revenue and Capital Carry Forwards**

### Carry forward of underspends

A11.1 During the course of the financial year, services can request permission to provisionally carry forward an underspend at year end. In-year, these carry forwards will be approved in principle as “subject to outturn”. The approval limits for these in-year individual carry forwards are:

<b>Approver</b>	<b>Approval Limit (per individual item)</b>
Director of Finance	Up to £100,000
Cabinet Member Legal and Finance	Over £100,001

A11.2 All carry forward proposals must be supported by the appropriate justification demonstrating that the resources carried forward will be earmarked for a specific purpose or issue. Directors should include provisional indications of likely carry forward requests in their quarterly reviews of performance.

A11.3 Before approval is sought for a carry forward, Directors should ensure that there are no unfunded overspends within their department. It is extremely unlikely that proposed carry forwards for a service will be approved if there are unfunded overspends elsewhere within the department.

A11.4 For capital budgets, underspends against rolling annual allocations funded from Council resources or unringfenced grant funding will only be approved on an exception basis, with any commitments expected to be the first call on the following year's capital allocation. For committed one-off schemes re-profiling into future years will be automatically approved provided the scheme remains a priority for the Council at that time.

#### Carry forward of overspends

A11.5 Any residual overspending on a Service revenue budget or capital allocation at outturn may be carried forward as the first call on the following year's budget. This will be determined by the Director of Finance.

### **A12 Accounting Policies and Statement of Accounts**

A12.1 The Director of Finance is responsible for the preparation of the Council's Statement of Accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Council Accounting in the United Kingdom for each financial year ending 31 March.

A12.2 The key controls for accounting policies are:-

- (a) Systems of internal control that ensure financial transactions are lawful;
- (b) Suitable accounting policies are selected and applied consistently;
- (c) Accurate and complete accounting records are maintained;
- (d) Financial statements are prepared which present a true and fair view of the financial position of the Council.

A12.3 The Director of Finance is responsible for:-

- (a) Selecting suitable accounting policies and ensuring that they are applied consistently;
- (b) Exercising supervision over financial and accounting records and systems;

- (c) Preparing and publishing reports containing the statements on the overall finances of the Council including the Council's Annual Report and Accounts.

A12.4 The Director of Finance is responsible for determining the accounting procedures and records for the Council. All accounting procedures will be approved by the Director of Finance.

A12.5 Directors are responsible for ensuring that staff in their departments are aware of, and adhere to, the accounting policies, procedures and guidelines set by the Director of Finance.

A12.6 All accounts and accounting records will be compiled by the Director of Finance or under his/her direction.

## **Financial Planning**

### **In this Section:-**

B1	Why is Financial Planning important?
B2	Policy Framework
B3	Revenue Expenditure
B4	Revenue Budget Preparation
B5	Budget Monitoring and Control
B6	Determination, Monitoring & Control of affordable borrowing
B7	Responsibility for borrowing
B8	Capital Approvals and Strategic Projects
B9	Capital Monitoring and Amendments to the Capital Programme
B10	Capital Receipts
B11	Leasing and Rental Agreements
B12	Maintenance of Reserves

## **B1 Why is Financial Planning Important?**

B1.1 Section 2 of the Constitution explains how Council adopts the Budget and Policy Framework following proposals from the Cabinet, and that once adopted the Cabinet is responsible for its implementation. In terms of financial planning, the key elements of the Budget and Policy Framework are:-

- (a) The Council Plan – this sets out the Council's long term aims and objectives. It is regularly revisited to ensure that the Council's priorities remain relevant to its overall aims and to assess the progress being made in achieving these.
- (b) The Budget - The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.
- (c) The Capital Strategy - Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. The Capital Strategy sets the framework for the planning, prioritisation, management and funding of capital expenditure.
- (d) The Commercial Investment Strategy - The commercial investment strategy is designed to meet the dual purposes of providing the Council with a framework to help it shape, manage and prioritise its existing and planned investments and to support transparency of reporting for investments and associated risks. This framework seeks to ensure that the Council has a clear set of guidelines that it will use when considering commercial investment opportunities
- (e) Specific Service Plans and Strategies which have financial implications.

## **B2 Policy Framework**

B2.1 Council is responsible for approving the Budget and Policy Framework. The policy framework will comprise the statutory plans and strategies which the Council is required to produce.



- B2.2 Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.
- B2.3 Council is responsible for approving the process to enable changes to be made to the budget during the financial year. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.
- B2.4 On an annual basis the Council has:-
- (a) The Council Plan detailing its objectives and targets over a 3 to 4 year planning horizon;
  - (b) A Medium Term Financial Strategy outlining the financial scenario over a 3 to 4 year planning horizon and the policy and expenditure options required to respond to this scenario.
- B2.5 The Chief Finance Officer will advise the Council on the financial environment, financial policies (including the appropriate levels of reserves and contingencies, the amount of borrowing outstanding and an appropriate treasury management strategy) and the policy and expenditure options to assist in the determination of its Budget. Individual Directors will support this process by assessing and advising on their respective service policy and expenditure options in a form determined by the Director of Finance.
- B2.6 The Cabinet, advised by the Director of Finance, will develop a budget package including financing options, policy and expenditure options and capital programme. This will be subject to review by the relevant Scrutiny Committee and Cabinet before consideration by Council. The final Budget and Council Tax precept will be approved by Council.

### **Revenue Budget Preparation, Monitoring and Control**

#### **B3 Revenue Expenditure**

- B3.1 Revenue expenditure is broadly defined as any expenditure incurred on the day to day running of the Council. Examples of revenue expenditure include salaries, energy costs, and consumable supplies and materials.

#### **B4 Revenue Budget Preparation**

- B4.1 The Chief Finance Officer is responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Cabinet, before submission to Council. Council may amend the budget or ask the Cabinet to reconsider it before approving it in accordance with the Constitution.
- B4.2 It is the responsibility of Directors to ensure that budget estimates reflecting agreed plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.
- B4.3 The Chief Finance Officer is responsible for approving the Council's tax base for the forthcoming year and reflecting this within the budget.
- B4.4 The Cabinet will then submit a 'final budget' to Council for approval.
- B4.5 The Chief Finance Officer is responsible for reporting to Council on the robustness of estimates contained within the budget proposed by the Cabinet and the adequacy of reserves allowed for in the budget proposals.
- B4.6 Council shall not approve additional net expenditure to either revenue or capital budgets without first having considered the advice of the Cabinet and the Director of Finance on the financial implications arising.

#### **B5 Budget Monitoring and Control**

- B5.1 The Director of Finance is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations at a corporate level and report to the Cabinet on the overall position on a regular basis.
- B5.2 It is the responsibility of Chief Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Director of Finance. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Director of Finance to any problems.
- B5.3 In addition, the Director of Finance will:
  - (a) administer the Council's scheme of virement (both administrative virements and those requiring Member approval);
  - (b) prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis.

#### **B6 Determination, Monitoring & Control of Affordable Borrowing**

- B6.1 Under the Local Government Act 2003 the Council is required to have regard to the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code for Capital Finance in Local Authorities (Prudential Code).
- B6.2 The key objectives of the Prudential Code are to ensure that within a clear framework, the capital investment plans of local authorities are affordable, prudent and sustainable. A further objective is to ensure that treasury management activity supports prudence, affordability and sustainability.
- B6.3 The Prudential Code requires that prior to the commencement of the financial year the prudential indicators for the forthcoming financial year and at least the two subsequent financial years must be approved as part of the Treasury Management Strategy.
- B6.4 In addition the Council will set for itself the following Financial Health Indicators (FHIs) for the current year, the following year and the two successive years:
- (a) interest and debt repayment costs as a % of net budget;
  - (b) The total borrowing requirement as a % of the Council's net budget.

## **B7 Responsibility for Borrowing**

- B7.1 The Director of Finance is responsible for:-
- (a) establishing procedures to both monitor performance against all forward looking prudential indicators and for ensuring that gross external borrowing does not exceed the Council's authorised limit;
  - (b) reporting to Council any significant deviations from expectations;
  - (c) ensuring that regular monitoring is undertaken in year against the prudential indicators of affordability and sustainability, by reviewing estimates of financing costs to revenue, the capital financing requirement and the local FHIs;
  - (d) reporting to Council, setting out management action, where there is significant variation in the estimates used to calculate these prudential indicators, for example caused by major overruns of expenditure on projects or not achieving in-year capital receipts.

## **Capital Programme**

### **B8 Capital Approvals and Strategic Projects**

- B8.1 The Council has developed a governance process which sets out the process and

documentation that must be used for all proposals to be included in the Council's approved capital programme and for strategic projects. The purpose of this process is to ensure that all proposals are both affordable and fit with corporate priorities.

- B8.2 The Head of Financial Management will review this process as required and it is the responsibility of each project manager to ensure that they keep up to date with the process and documentation.

## **B9 Capital Monitoring and Amendments to the Capital Programme**

- B9.1 All capital schemes and allocations should be approved through the annual capital programme setting process, within the timetable set out by the Director of Finance and approved at the annual budget setting Council.
- B9.2 In exceptional cases there will be a need for a new capital project to be approved in-year. The approval process for these in-year schemes is set out in Section A (A9).
- B9.3 Project Managers must ensure that the project specification remains consistent with the approved business case and continues to represent value for money for the Council. Where project outcomes or costs alter significantly from those originally approved a revised Business Case must be completed for approval in line with the capital governance process.
- B9.4 Wherever possible, expenditure in respect of Highways improvements funded by developers and rechargeable works should be included in the Capital Programme. Where this is not possible Directors may approve capital expenditure in respect of:
- (a) Highway improvements fully funded by developers under Section 278 of the Highways Act 1980, provided that a formal agreement has been completed with the developer;
  - (b) Other rechargeable reinstatement work costing in excess of £10,000;
  - (c) Urgent work to repair, replace or reinstate vehicles, buildings or equipment, where the work is to be fully funded from insurance monies following consultation with the Director of Finance.

## **B10 Capital Receipts**

- B10.1 The Director of Finance must be informed of all proposed sales of land and buildings so that the effect on financial management can be assessed. Rules for land and property disposals are set out in C (C9).
- B10.2 The amount of receipts to be set aside for the repayment of debt, and how the balance of such receipts is to be used, will be determined as part of the financial planning

process for revenue and capital.

## **B11 Leasing and Rental Agreements**

B11.1 Leasing or renting agreements must not be entered into unless the service has established that they do not constitute a charge against the Council's prudential borrowing limits. Advice can be obtained from the Head of Financial Management on general leasing arrangements and on whether the lease is a finance or operating lease.

B11.2 For leases relating to land or property refer to chapter C (section 9.9) of the Finance and Contract Procedure Rules.

## **B12 Maintenance of Reserves**

B12.1 The Chief Finance Officer is responsible for advising the Cabinet and/or Council on prudent levels of reserves for the Council, taking into account the advice of the external auditor.

B12.2 The key controls are:

- (a) to maintain reserves in accordance with the Code of Practice on Local Council Accounting in the United Kingdom and agreed accounting policies;
- (b) for each reserve established, the purpose, usage and basis of transactions should be clearly identified;
- (c) authorisation of expenditure from reserves is in accordance with the limits set out in Sections A6 (for General Reserves) and A7 (for Earmarked Reserves).

## **Risk Management and Control of Resources**

### **In this Section:-**

C1	Insurance
C2	Risk Management
C3	Business Continuity
C4	Internal Controls
C5	Internal Audit
C6	External Audit
C7	Preventing Fraud and Corruption
C8	Assets
C9	Property
C10	Inventories
C11	Stocks
C12	Cash
C13	Asset disposal/Write off (Non Property)
C14	Treasury Management
C15	Investments and Borrowings
C16	Trust Funds and Funds held for Third Parties
C17	Salaries and Wages
C18	Early Retirement/Severance
C19	Travelling and Subsistence
C20	Code of Conduct
C21	Third Party Funds
C22	Retention of Records

### **C1 Insurance**

- c1.1 The Director of Finance will maintain and administer the Council's insurances. The Director of Finance is responsible for authorising the settlement or repudiation of insurance claims and associated costs acting on advice from the Council's insurance solicitors, insurers and claims handlers.
- c1.2 Directors are responsible for informing the Director of Finance immediately of:
- (a) any insurance claims received;
  - (b) any events which may result in an insurance claim against the Council;
  - (c) the terms of any indemnity which the Council is required to give prior to entering into any contracts etc;
  - (d) any new risks which might require to be insured, together with any changed circumstances affecting existing risks. Consideration should be given to new

projects, new ways of working, and changes in legislation requiring new ways of delivery etc where the insurance impact is often overlooked;

(e) changes to the assets insured by the Council;

(f) changes to the responsibility of the Council.

C1.3 No new insurances may be taken out without prior consultation with the Director of Finance.

C1.4 Directors must ensure the retention of documents in accordance with the corporate retentions policy and that there is co-operation with the Insurance Team in providing the correct documentation within the strict timescales of the Civil Procedure Rules when dealing with claims.

C1.5 Service budgets may be charged with the cost of legal penalties or losses incurred by the Council as a result of any failure to comply with the requirements of the Civil Procedure Rules and these Finance and Contract

C1.6 Procedure Rules relating to claims.

## **C2 Risk Management**

C2.1 The Council's approach to Risk Management is that it should be effective in helping to optimise the balance between risk taking and control, maximising opportunities and encouraging innovation.

C2.2 Directors are responsible for ensuring the Risk Management Policy and Strategy is implemented and that the Risk Management framework operates within their Service. Risk Management should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.

C2.3 There are several levels of risk register within the Council. There should be a movement of risks both upwards and downwards through the levels and treatment addressed at the most appropriate level of the organisation:-

(a) Corporate Risk Register - contains risks that impact on the organisation's overall objectives either because of their frequency of occurrence across several services or the significance of the impact;

- (b) Service Risk Registers - contain strategic and operational risks that impact on the delivery of service objectives;
- (c) Team Risk Registers – contain operational risks that impact on the delivery of team priorities and act as a feeder for risks to be elevated to the Service Risk Register;
- (d) Programme/Project Risk Register – contain risks associated with individual projects. Due to the speed of project delivery risks are more likely to be more dynamic and more frequently monitored and reported.

C2.4 Directors are responsible for ensuring Risk Management is carried out at both an operational and strategic level in accordance with the corporate risk management framework.

C2.5 The Service Risk Register is a perpetual living document and should be reviewed annually to align with the relevant Service outcome plan. These risk registers will help to inform the Council's risk appetite and the Corporate Risk Register.

C2.6 Service Risk Registers will be monitored and reviewed quarterly and reported as part of the quarterly performance reports.

C2.7 Directors will take account of and address corporate risks where appropriate within their Service Risk Register, and inform the Head of Compliance and Assurance of any Service risks that could be considered significant enough to highlight at a corporate level.

C2.8 The Corporate Risk Register is maintained by the Head of Compliance and Development. It will be reported to the Corporate Management Board on a regular basis.

C2.9 Audit and Governance Committee will also receive risk management reports on a regular basis to monitor the effective development and operation of risk management in the Council. The Committee provides independent assurance of the adequacy of the risk management framework and the internal control environment.

### **C3 Business Continuity**

C3.1 Corporate Management Board is responsible for determining the Business Continuity Strategy and ensuring it is compliant with the Civil Contingencies Act 2004. Directors are responsible for implementing it, and monitoring and reviewing its effectiveness.



- C3.2 The Director of Governance develops the strategy and supporting framework on behalf of the Corporate Management Board.
- C3.3 Audit and Governance Committee is responsible for approving the Business Continuity Strategy and reviewing its effectiveness as part of the risk management framework and the internal control environment.
- C3.4 Directors are responsible for ensuring that arrangements are in place to ensure the continuity of service delivery in the event of a disruptive incident. This is managed via the development of robust Business Continuity Plans which are regularly maintained and tested in accordance with the Business Continuity Strategy.
- C3.5 Directors are responsible for ensuring that arrangements/contracts for significant areas of service provision include requirements for contractors/partners/suppliers to have robust and tested business continuity plans. This should include the ongoing monitoring and compliance with this requirement via contract performance management and, where necessary, joint exercises.

#### **C4 Internal Controls**

- C4.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C4.2 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C4.3 It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

#### **C5 Internal Audit**

- C5.1 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 more specifically require that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.
- C5.2 The Public Sector Internal Audit Standards (PSIAS) defines Internal Audit as “an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes”.
- C5.3 The Internal Audit team (part of the Compliance & Assurance Service) delivers this function within the Council.
- C5.4 The Accounts and Audit Regulations 2015 require the Council to review the effectiveness of its governance framework, including the system of internal control, on an annual basis and report the results in an Annual Governance Statement. This statement must provide a description of the governance framework within the Council, a description of any work undertaken to assess its effectiveness, and any significant governance weaknesses identified.
- C5.5 To contribute to the production of the Annual Governance Statement, the Head of Internal Audit is responsible for planning and delivering a programme of independent review of the Council’s activities, the scope of the programme being based on the Council’s objectives and an assessment of the risk which may affect the achievement of these objectives.
- C5.6 The Head of Internal Audit is also responsible for reporting to those charged with Governance and currently satisfies this requirement by presenting an annual report to the Audit and Governance Committee, summarising the audit plan for the coming year and a commentary on audit activity which is completed or in progress. Quarterly reports setting out progress against the annual audit plan and delivery against its key performance indicators are also taken to the Audit and Governance Committee. In addition, any matters of material importance in relation to audit matters are also reported to the Cabinet and Audit and Governance Committee.

C5.7 Audit staff will have full access to all premises, staff, assets, records and third party fund transactions as is necessary to conduct their reviews. With regards to organisations participating in partnering arrangements, including alternative delivery vehicles where provided for in the contract or service level agreement, Audit staff shall have such access to premises, staff, assets and records of the partner as is necessary for the purposes of the partnering arrangement. Partners will be required to grant reasonable access when requested and details of such access should be agreed with the partner and set out in the Partnering Agreement. Where the right of access has not been specified in existing arrangements then appropriate discussions with partners should take place. Similar rights of access should be determined as part of the establishment of any alternative delivery vehicles, and should be similarly agreed and documented in the contract or service level agreement.

## **C6 External Audit**

C6.1 The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

C6.2 The Local Audit and Accountability Act 2014 established new arrangements for the audit and accountability of relevant authorities and these new arrangements include the ability for local authorities to appoint their own local (external) auditors via an 'auditor panel'. An auditor panel can be established individually or jointly with one or more other authority.

C6.3 The Council may, from time to time, also be subject to audit, inspection or investigation by external bodies such as Ofsted or HM Revenue and Customs, who have statutory rights of access.

## **C7 Preventing Fraud and Corruption**

C7.1 The Head of Internal Audit is responsible for the development and maintenance of an Anti-Fraud and Corruption Strategy.

C7.2 The Council has an approved Anti-Fraud and Corruption Strategy which places responsibility for maintaining an anti-fraud culture with all Members, managers and individual members of staff. Any matters which involve, or are thought to involve, any fraud or other significant irregularity involving Council assets or those of a third party

fund, must be notified immediately to the Fraud and Investigation Manager, in conjunction with other officers detailed in the Council's Anti-Fraud and Corruption Strategy, who will decide what steps are necessary.

C7.3 In line with the Anti-Fraud and Corruption Strategy, the Director of Governance in their role as Monitoring Officer will, in consultation with the appropriate Director, decide whether any matter under investigation should be referred to the Police or appropriate enforcement agency following advice from the Fraud and Investigation Manager.

## **C8 Assets**

C8.1 In the context of these Rules, assets are defined as the resources, other than people, that the Council uses to deliver its service functions. Assets include buildings, land and infrastructure; furniture; equipment; plant; stores and "intellectual property" such as computer software, data and information of all kinds.

C8.2 Directors are responsible for the care, control and proper and economical use of all assets used in connection with the operation and delivery of their Services. Proper records should be maintained for these assets, together with appropriate arrangements for their management and security.

C8.3 Directors are responsible for ensuring that assets are used only for official purposes and that all appropriate rights, licenses and insurances are obtained.

C8.4 Directors are responsible for ensuring that all computer software used is properly licensed.

C8.5 Directors are expected to have policies in place for:-

- (a) the effective disposal of surplus assets;
- (b) asset replacement programme;
- (c) compilation of and regular review of asset inventories.

## **C9 Property**

C9.1 The Council's approach to property asset management is based on two main principles:-

- (a) Property is a corporate resource, owned by the Council, not by individual Services. This principle underpins the fact that property is one of the Council's most expensive resources and that it needs to be managed proactively to support service delivery and improvement across all Services;
- (b) Property is held to support the delivery of the Council's corporate objectives. This is to be delivered through a rigorous policy of property review and the disposal of any properties that are no longer required to meet corporate objectives.

C9.2 The Council's policies, aims and objectives relating to property asset management are explained further in the Asset Management Strategy.

C9.3 Property assets are comparatively "illiquid and changes necessarily take time to implement. Directors should be aware of this when planning new initiatives or changes to service delivery patterns and must ensure that the Director of Commercial Management and Delivery is consulted at the earliest possible stage of the planning process in order that appropriate advice and support can be given.

C9.4 Directors are responsible for ensuring that property under their day to day control is occupied/used in accordance with all appropriate legal and regulatory requirements and that nothing occurs which might diminish the value of the asset. Particular care is required when carrying out alterations to a building and where any form of shared use with another organisation is planned. The advice of the Director of Finance and Director of Commercial Management and Delivery must be obtained before this is permitted.

C9.5 All property acquisitions, lettings and disposals must be negotiated and approved in accordance with the approvals set out in these Finance Procedure Rules, or within the Property Scheme of Delegation. The Director of Commercial Management and Delivery will be responsible for the negotiations of all such transactions.

C9.6 Property acquisitions and disposals can be authorised as follows:-

- (a) Farms – providing this is in line with the overarching policy for the disposal of farms assets the disposal will be subject to the following individual transactional approvals:

Value of Farm Sale	Approval Required
Up to £1,000,000	Director of Commercial Management

	and Delivery in consultation with Cabinet Member for Legal & Finance
£1,000,001 and above	Cabinet Member for Legal & Finance

- (b) Commercial Assets - provided the sale/purchase is in line with the criteria set out in the Property Reinvestment Programme strategy, and a business case has been approved as per the policy, no further approval is required;
- (c) All other disposals or acquisitions of land or property not covered by (a) and (b) above.

Value of sale / acquisition (£)	Approval Required
Up to £100,000	Director of Commercial Management and Delivery
£100,001 to £500,000	Director of Commercial Management and Delivery and Director of Finance in consultation with Cabinet Member for Legal & Finance
£500,001 to £1,000,000	Cabinet Member for Legal & Finance
Over £1,000,000	Cabinet

C9.7 The write-off of losses on the disposal of property can be authorised as follows.

Approver	Loss on disposal
Director of Commercial Management and Delivery in consultation with Director of Finance and Director of Governance	Up to £50,000
Cabinet Member for Legal & Finance	£50,000 to £100,000
Cabinet	Over £100,000

C9.8 Losses on the disposal of property assets should be based on the market value of the asset. Approval for the write off of losses must be sought before disposal. Any write off which arises as a result of theft or fraud must be notified immediately to the Fraud and Investigation Manager.

C9.9 The following limits apply for the authorisation of:

- granting any new lease, easement, wayleave or other right to interest;
- accepting the surrender or forfeiture of any lease with financial implications;
- the settlement of dilapidations.

Approver	Approval Limit
Director of Commercial Management and Delivery	Up to £100,000
Director of Commercial Management and Delivery, Director of Finance in consultation with Cabinet Member for Finance and Legal	£100,001 to £500,000
Cabinet Member for Legal and Finance	£500,001 to £1,000,000
Cabinet	Over £1,000,000

## **C10 Inventories**

- C10.1 Directors must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items, including vehicles, furniture, computer and other equipment (including software), visual aids, expensive tools and sports equipment.
- C10.2 The inventory must be updated for all acquisitions and disposals and checked at least annually. Items acquired under leasing arrangements must be separately identified for disclosure in the published final accounts.

## **C11 Stocks**

- C11.1 Stock is defined as consumable items constantly required and held by a Service centre in order to fulfil its functions. Directors are responsible for the control of stocks. They must ensure that stocks are appropriately recorded, do not exceed reasonable requirements and that all significant stock is accounted for in the year end accounts. Stocks should be checked at least once a year, more frequently in the case of expensive items.

## **C12 Cash**

- C12.1 Cash held on any Council premises should be held securely and should not exceed any sums for which the Council is insured. (Detailed guidance on limits is available from the Council's Insurance Team). If this is unavoidable, in exceptional circumstances, the Director is responsible for making appropriate security arrangements.
- C12.2 The type of receptacle used to secure the cash should be appropriate to the amount of cash held and records detailing the amounts should be maintained and stored separately to the cash.

## **C13 Asset Disposal/Write Off (Non Property)**

- C13.1 The disposal of non-property assets can be authorised as follows:-

<b>Approval level</b>	<b>Value of Disposal</b>
Directors	Up to £10,000
Directors in consultation with Director of Finance (or their nominated deputy) and Director of Governance	£10,001 to £50,000
Cabinet Member for Legal & Finance	£50,001 to £500,000
Cabinet	Over £500,000



C13.2 The write off of losses on disposal of non-property assets can be authorised as follows:-

<b>Approval level</b>	<b>Loss on disposal</b>
Directors	Up to £1,000
Directors in consultation with Director of Finance (or their nominated deputy) and Director of Governance	£1,001 to £20,000
Cabinet Member for Legal & Finance	Over £20,000

C13.3 Losses on disposal of non property assets should be based on the depreciated value of the asset and approval for the write off of losses must be sought before disposal. Write-off Schedules are required to be completed and approved at the appropriate level, dependant on the value of the goods (depreciated value at time of disposal/sale). The form should be retained locally within the service in line with corporate retention schedules.

C13.4 Any write off which arises as a result of theft or fraud must be notified immediately to the Fraud and Investigation Manager.

#### **C14 Treasury Management**

C14.1 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.

C14.2 Audit & Governance Committee is responsible for approving the Treasury Management Policy Statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities. The Director of Finance has delegated responsibility for implementing and monitoring the statement.

C14.3 All money in the hands of the Council is controlled by the Chief Finance Officer as designated for the purposes of section 151 of the Local Government Act 1972.



- C14.4 The Chief Finance Officer is responsible for submitting to Audit & Governance Committee, for their approval, a proposed Treasury Management Strategy prior to the start of the financial year to which it relates.
- C14.5 All executive decisions on borrowing, investment or financing shall be delegated to the Director of Finance, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- C14.6 The Director of Finance is responsible for reporting on the activities of the treasury management operation and, on the exercise of the Director of Finance's delegated treasury management powers, to the Audit and Governance Committee on a quarterly basis during the financial year. In addition, an annual report on the treasury management activity undertaken in the previous financial year will be presented to Audit and Governance Committee for approval by 30 September of the succeeding financial year.

## **C15 Investments and Borrowings**

- C15.1 It is the responsibility of the Director of Finance to:-
- (a) ensure that all investments of money are made in the name of the Council or in the name of nominees approved by Council;
  - (b) ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Director;
  - (c) effect all borrowings in the name of the Council;
  - (d) act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council;
  - (e) that the amount of borrowing outstanding at any point in time does not exceed the Council's authorised limit for the year.

## **C16 Trust Funds and Funds Held for Third Parties**

- C16.1 It is the responsibility of the Director of Finance to:-
- (a) arrange for all trust funds to be held, wherever possible, in the name of the Council (e.g. 'Cheshire West and Chester Council on behalf of...');

- (b) arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Director of Finance, and to maintain written records of all transactions;
- (c) ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

C16.2 All officers acting as trustees by virtue of their official position shall deposit trust assets and securities with the Director of Finance, unless the Trust Deed provides otherwise.

## **C17 Salaries and Wages**

C17.1 Directors are responsible, in consultation with the Head of Human Resources, for providing accurate and appropriate information and instructions to enable the calculation and prompt payment of salaries, expenses and pensions, including details of appointments, promotions, regradings, resignations, dismissals, retirements and absences from duty. The Director of Finance will make arrangements for payment to the appropriate bodies, of all statutory, including taxation, and other payroll deductions.

C17.2 Time sheets and other pay documents which are used to generate payment of salaries, wages or other employee-related expenses must be on official forms or via authorised electronic inputs. Directors are responsible for ensuring that they are certified by an authorised officer and that they are submitted to the payroll provider in accordance with the specified timetable. This includes on-line input entered locally. The names of authorised officers must be secured by Directors and included in the Service Scheme of Financial Delegation.

C17.3 The Head of Human Resources will implement national and local pay agreements as soon as possible after their notification from the appropriate body. Arrangements for funding such awards will be determined each year as part of the budgetary process.

## **C18 Early Retirement/Severance**

C18.1 Where Directors wish to bring forward proposals under the Council's policies on severance and early retirement, they must be accompanied by a full cost and affordability assessment. The relevant Director (or the Chief Executive if the request relates to a Director), Chief Finance Officer and Director of Finance (or their nominated deputy) must approve all requests. Approval from Staffing Committee is required for any request over £100,000, including actuarial costs.

- C18.2 Directors will generally be required to meet the costs of severance and early retirement from within their approved budget, unless the request relates to an approved budget proposal.

## **C19 Travelling and Subsistence**

- C19.1 Directors are responsible for instructing the Head of Human Resources and for providing appropriate and accurate information to enable the prompt and accurate payment of travelling, subsistence and other expenses to authorised employees in accordance with the terms of employment agreed by the Council.
- C19.2 Directors are responsible for ensuring that Council employees who use their cars for official business are properly insured to indemnify the Council against any loss, and for ensuring that payments are only made in respect of journeys which are necessary and actually undertaken.
- C19.3 All claims for reimbursement must be made using appropriate official claim forms or via authorised electronic inputs.

## **C20 Code of Conduct**

- C20.1 The Code of Conduct for Employees applies to and will be followed by all officers. It covers standards, disclosure of information, political neutrality, relationships, appointments and other employment matters, outside commitments, personal interests, equality issues, separation of roles during tendering, gifts and hospitality, use of financial resources and sponsorship.
- C20.2 Where an outside organisation wishes to sponsor or is asked to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality applies, as detailed in the Code of Conduct for Employees.

## **C21 Third Party Funds**

- C21.1 A third party fund is defined as any fund financed other than by the Council, controlled wholly or partly by a member of the Council's staff in connection with the clients, establishments or activities of the Council such as School Funds, Amenity Funds or Criminal Injuries Compensation Payments for children in care.
- C21.2 Officers maintaining third party funds should maintain records of their nature and purpose, to be made available to the Director of Finance on request.
- C21.3 Money or goods belonging to the third party fund must be kept completely separate from other money or goods belonging to the Council. Similarly, completely separate

records must be kept of the money or goods involved.

- C21.4 An independent auditor must be appointed who has suitable qualities, though not necessarily professionally qualified, to audit the third party fund on an annual basis where required by legislation. The Director of Finance will advise on such appointments. Annual Statements of Account and Audit Certificates must be formally presented to a Management Committee or other appropriate governing body.
- C21.5 Directors are responsible for ensuring that any third party funds controlled by Council staff are:-
- (a) Maintained in a register kept by the Service to be made available to the Director of Finance on request;
  - (b) maintained separately and correctly in accordance with these Finance and Contract Procedure Rules;
  - (c) subject to the same standards of stewardship and probity as Council funds.

## **C22 Retention of Records**

- C22.1 The Returning Officer will be responsible for maintaining complete and accurate records and for reconciliation with regard to elections accounts.
- C22.2 The Council, in common with other public and private organisations, has certain statutory obligations it has to meet for the retention of its records. It also has to fulfil the requirements of HM Revenue and Customs, other legislative requirements and the external auditors in respect of its financial records.
- C22.3 All records held should have an appropriate retention period assigned to them, which meet the statutory obligations to retain financial records, but also takes into account legislative requirements such as the Limitation Act and Data Protection Act; Freedom of Information requirements; and the business needs of the department.
- C22.4 The majority of financial records must be kept for 6 years from the end of the tax year to which they relate. Some records however, may need to be kept for longer periods e.g. if required to defend future insurance claims. It is possible others can be destroyed within shorter periods. The Council's retention schedules, available on the intranet, set out the length of time for which different types of records should be kept. The schedules are based on legislative requirements and best practice, and as such must be adhered to by Services.

## **Financial Systems and Procedures**

### **In this Section:-**

D1	Banking Arrangements
D2	Legal Powers – Charging by the Council
D3	Legal Powers – Trading by the Council
D4	Charging and Trading Policy
D5	Collection of Income
D6	Bad Debts
D7	General Principles - Ordering and paying for work, goods and services
D8	Payment of Invoices
D9	Non-invoice payments
D10	Purchase Cards
D11	Local Bank and Imprest Accounts
D12	Payment to Members
D13	Taxation

### **D1 Banking Arrangements**

- D1.1 It is the responsibility of the Director of Finance to operate bank accounts as are considered necessary. Opening or closing any bank account requires the approval of the Director of Finance or their nominated deputy.
- D1.2 The Director of Finance will approve the terms under which banking services, including overdraft facilities, are provided.
- D1.3 All bank accounts must be titled impersonally with the prefix of Cheshire West and Chester Council subject to any exceptions agreed by the Director of Finance.
- D1.4 Subject to any directions given by the Council, all arrangements with the Council's bankers must be made solely through the Director of Finance. No bank accounts may be opened or arrangements made with any other bank except by agreement with the Director of Finance.
- D1.5 Bank transfers, CHAPS payments and faster payments from the General Fund and the Council's other main drawings accounts must be signed by the Director of Finance, or those officers authorised to sign through the agreed Scheme of Financial Delegation.
- D1.6 Transactions on the Council's secondary (i.e. imprest) account must be authorised as per the relevant Scheme of Financial Delegation.
- D1.7 Cheques drawn must bear the mechanically impressed or facsimile signature of the Chief Finance Officer or be signed by other officers authorised to sign through the

agreed Scheme of Financial Delegation.

D1.8 No direct debits should be set up unless authorisation has been sought from the Director of Finance.

## **Charging or Trading by the Council**

### **D2 Charging**

D2.1 This section applies to services which the Council has a power but not an obligation to provide and for which it is proposed to make a charge to recover all or part of the costs incurred by the Council in providing the services. Directors are responsible for ensuring that legal advice is sought before introducing charging, in relation to legal powers, authorisation, Member engagement, consultation and related issues. The Director of Governance should also be consulted before proceeding with a project that involves a new policy for charging for discretionary services or a variation on previous practice.

### **D3 Trading**

D3.1 This section (D3) applies to the provision of services which the Council proposes to provide to third parties in the public sector and on a commercial basis.

D3.2 The Council's approach to trading is one which is based on risk but which also empowers services and encourages external income generation. Legal advice must be sought in advance in relation to trading with bodies which are not classed as public bodies within the meaning of the Local Authorities (Goods and Services) Act 1970. The table below shows approval limits in respect of the provision of new services which the Council proposes to provide to third parties in the public sector and on a commercial basis:

<b>Approval level</b>	<b>Financial impact</b>
Senior Service Manager	Less than £5,000
Director	£5,001 - £100,000
Director in consultation with the Director of Finance, Director of Governance and the relevant Cabinet Member	£100,001 - £500,000
Cabinet	£500,001 - £1,000,000
Council	Over £1,000,000

### **D4 Charging and Trading Policy**

D4.1 Charges should be reviewed annually to ensure that they are still compliant with all the legal and financial requirements and increased annually where relevant. Unless there is a statutory limit on charges (e.g. planning fees), charges must be based on

the principle of full-cost recovery, including all service and corporate overheads. Directors are required to provide evidence of full cost recovery to the Director of Finance.

- D4.2 Any variation in annual increases compared to inflation; where Directors wish to charge more or less than the full cost; or where the proposal constitutes a new policy or a variation on previous practice the Director of Finance must be consulted in advance. Any increase above or below inflation should be approved in accordance with the table below:

<b>Approval level</b>	<b>Financial impact</b>
Directors	For increases above or below inflation up to £100,000
Directors in consultation with Director of Finance	For increases above or below inflation between £100,001 - £250,000
Relevant Cabinet Member	For increases above or below inflation between £250,001 - £500,000
Cabinet	For increases above or below inflation between £500,000 - £1,000,000
Council	For increases above or below inflation over £1,000,000

## **D5 Collection of Income**

- D5.1 Council officers must comply with arrangements determined by the Director of Finance for the safe and efficient collection and recording of all money due to the Council.
- D5.2 Directors are responsible for ensuring that accounts for income due to the Council, including grant claims, reimbursements and third party contributions, are raised immediately and accurately in a form approved by the Director of Finance. These must include VAT where appropriate.
- D5.3 The cost of collection should be taken into account when raising accounts. Directors must ensure that the method of collection is appropriate to the value of the transaction. Officers must endeavour to collect payment at point of service/sale wherever possible, especially for low value charges (e.g. Under £100).
- D5.4 Directors are responsible for ensuring that all income received is receipted, where required, recorded correctly against the appropriate budgets, and in the case of cash



and cheques, banked with the minimum of delay. The frequency of banking should avoid incurring disproportionate banking charges on relatively low value transactions, taking into account local security and insurance cover arrangements.

- D5.5 Where a service wishes to collect income by electronic means (i.e. by debit card, credit card, contactless payments etc) using an external service provider (e.g. Parentpay etc) then prior to putting in place such arrangements the service will need to seek the approval of the Director of Finance in respect of the accounting procedures to be put in place for recording the income. In addition, the service will be responsible for ensuring that the external service provider meets the requirements of the Payment Card Industry Data Security Standards (PCI DSS) both when appointed and for all subsequent periods during which their services are being used.
- D5.6 Directors are responsible for monitoring income collection and ensuring appropriate recovery action is taken. A summary of the position on the level of outstanding debt and collection issues should be included in the quarterly performance reports.
- D5.7 Credit notes must be authorised by appropriate officers nominated in the Service Scheme of Delegation.
- D5.8 Any receipts, tickets or other documents used as receipts should be in a format agreed by the Director of Finance. All controlled stationery issued to a Director must be recorded in a register, which is held by a single officer within each Service.

## **D6 Bad Debts**

- D6.1 The Council has a Corporate Debt Policy with the guiding principle that customers have a responsibility to pay amounts that have been properly assessed as being due. The Council is committed to using the most appropriate and effective recovery methods available to it and does so in accordance with its approved Debt Recovery Code of Practice.
- D6.2 In certain circumstances and for justifiable reasons it will be necessary to classify some debts as irrecoverable and to recommend that they be written off.
- D6.3 Directors in consultation with the Director of Finance (or their nominated deputy) and the Director of Governance are authorised to write off any value of debt where there are reasons that prevent the Council from attempting any further recovery action. These reasons are as follows:
  - a) The debtor has been declared bankrupt;
  - b) The debtor has gone into liquidation;
  - c) The debtor has had their debt remitted by the Court;
  - d) The debtor has been granted a Debt Relief Order for the debt;
  - e) The debtor is deceased and there is evidence of no estate;
  - f) Collection of the debt is statute barred
  - g) The debtor has entered into a Company Voluntary Arrangement (CVA)



D6.4 Debts that are being written off for a reason other than those listed in D6.3, must be approved in accordance with the following limits:

Approval level	Collective Total of Debt
Directors in consultation with Director of Finance (or their nominated deputy as per the scheme of delegation) and the Director of Governance	Up to £5,000
Directors in consultation with Director of Finance, Director of Governance	£5,001 to £20,000
Director of Finance, Director of Governance in consultation with Cabinet Member Legal & Finance	£20,001 to £100,000
Cabinet Member Legal & Finance	£100,001 to £500,000
Cabinet	Over £500,000

D6.5

Directors are responsible for ensuring that an adequate provision for bad debt is made in their service accounts and that contributions to this provision are included in budgetary projections and outturn reports. This should not however preclude pursuit of the debt.

## **D7 General Principles – Ordering and paying for work, goods and services**

D7.1 Directors are responsible for ensuring all required processes are followed to enable the prompt and accurate payment for goods and services provided and for the analysis of expenditure.

D7.2 Except for purchases by purchase card, or where an exception has been agreed in accordance with D7.9, all purchases must be supported by an official requisition and purchase order unless previously agreed with the Director of Finance. No payment will be made unless there is an official purchase order. All purchases, including by purchase card, must have regard to the Finance and Contract Procedure Rules.

D7.3 All requisition and purchase orders must be authorised in accordance with the relevant Service Scheme of Financial Delegation. All requisition and purchase orders must be raised within and relate to the current financial year. Any completed POs relating to previous financial years must be finally closed and in the case of call off orders, replacement POs arranged. Requisitions and POs must not cross financial

years. Where a requisition for the purchase of goods or services exceeds £5,000 in value Finance and Contract Procedure rules E33 – E.72 apply.

- D7.4 All official purchase orders must include, as a minimum, the order number, the price agreed with the supplier, description of the goods or services to be provided, the delivery address, the address where invoices must be received and the terms and conditions for the goods and services to be provided.
- D7.5 Directors must ensure that there is adequate separation of duties in the raising and authorisation of requisitions, authorising of purchase orders, receipt of goods and authorisation of payments to creditors.
- D7.6 Directors must ensure robust processes to continually maintain service HR records and Service Schemes of Delegation so that electronic workflows associated with core financial systems are not compromised.
- D7.7 All purchasing activity must be carried out in accordance with the Council's Procurement Strategy and advice issued about efficient and effective use of the Council's core financial and e-procurement systems and processes. Such processes will include the deployment of purchase cards. Invoices received for payment must comply with the Council's best practice processes.
- D7.8 Approval of the Procurement Manager must be sought in advance of entering into any supply agreement with a commercial creditor who has not been set up on the Council's core financial system.
- D7.9 Directors must consult the procurement team on appropriate arrangements for purchases of goods and services which cannot be accommodated within standard ordering and payment processes.

## **D8 Payment of Invoices**

- D8.1 All invoices must be sent directly by the creditor to the address stated on the official purchase order to enable prompt payment. Unless there are exceptional circumstances, all creditor invoices should be sent to the central payments team.
- D8.2 All invoices, as a minimum, must include the official purchase order number, the name and address of the Council (as customer), an invoice number, the description of the goods or services provided, the quantity delivered, the delivery address, the date of the invoices and/ or date of delivery of the goods or services, the address and VAT registration number of the supplier and the net price, the amount of VAT charged at

the prevailing rate(s) and the total amount charged. Any discount for prompt payment must also be shown.

- D8.3 Invoices received without a valid purchase order number will be returned to the creditor as unauthorised for payment.
- D8.4 The Council's standard payment terms are 30 days from receipt of a correct invoice by BACS (Bankers Automated Clearing System). Alternative terms may not be negotiated or agreed with suppliers without the explicit approval of the Director of Finance. Directors are responsible for notifying suppliers of these terms and for ensuring that they are observed by all those involved in the purchasing and payment processing.
- D8.5 Payment will only be made for goods and services which have been formally receipted in accordance with receipting procedures set out by the Director of Finance.

## **D9 Non-invoice payments**

- D9.1 Where Directors wish to initiate a payment to a third party without a supporting invoice, an official request for payment must be submitted to the Director of Finance. Non-invoice payments should be requested on an exceptional basis only. Where payments of this type need to be made on a regular basis Directors must consider, in conjunction with their Departmental Finance Manager, other alternative options which may be more appropriate.
- D9.2 Any such requests must be authorised by an officer designated with an appropriate approval limit in the relevant Service Scheme of Financial Delegation. They are responsible for ensuring that all payment details provided are accurate and that supporting records and documentation are available to substantiate the payment, including an official VAT receipt to allow for the reclaim of any VAT element. A proforma invoice, a request for payment, a supplier statement and a credit card voucher are NOT official VAT receipts.
- D9.3 Appropriately authorised requests for payment will be processed by the Director of Finance and paid by BACS. Cheques will only be used in exceptional cases and by prior agreement.
- D9.4 Payments or reimbursements in respect of salaries and wages, travelling expenses or other employment allowances must be processed through the Payroll system and not treated as a non-invoice payment.

## **D10 Purchase Cards**

- D10.1 The Council operates a scheme which offers Officers the flexibility to procure goods and services with a Purchase Card.
- D10.2 Directors are responsible for the appropriate deployment and management of purchase cards within their service. Further guidance on the use of purchase cards is available on the Council's intranet site.
- D10.3 The Purchase Card Procedures set out the terms, processes and procedures under which the scheme operates. It is important that when the card is used, it is used to purchase appropriate items only. The card should be used for low value, low risk purchases and not be used to bypass Corporate Contracts.
- D10.4 Council Purchase Card spend is under constant scrutiny down to line level detail. Purchase cards should be used for official purposes only. All spend will be reviewed internally on a regular basis with a report issued to Compliance & Assurance Board on a six monthly basis.

## **D11 Local Bank and Imprest Accounts**

- D11.1 Local bank and imprest accounts may only be used as alternatives to purchase orders and purchase cards by prior consent and in accordance with specific guidance and instructions issued by the Director of Finance.
- D11.2 Directors are responsible for ensuring that where local arrangements are in place:
- (a) Service Schemes of Delegation set out clearly the responsibilities and approval limits of individual officers in respect of these arrangements; and that these are reviewed and updated regularly;
  - (b) They are operated in accordance with guidance issued and that appropriate management supervision and compliance monitoring is undertaken;
  - (c) Adequate records are maintained to allow for the verification and reconciliation of all payments made to the Council's general ledger and bank accounts, and to allow for the proper treatment of VAT;
  - (d) Arrangements are being operated for legitimate Council business only;
  - (e) Ensure reconciliation on a monthly basis to the Council's General Ledger and highlight any issues to the relevant Departmental Finance Manager.
- D11.3 Local arrangements may not be used in any circumstances to circumvent either the Council's Corporate Procurement Strategy or agreed approval and authorisation procedures, nor must they be used for any payments in respect of salaries and

wages, travelling or other employment expenses, or payments for work carried out under the Construction Industry Tax Deduction Scheme.

- D11.4 Claims for reimbursement of expenses paid using the imprest account should be submitted to payments section on a monthly basis.
- D11.5 The only monies that are to be credited to the imprest accounts are the reimbursements made by the Council's payments section using either the BACS system or the faster payments system.
- D11.6 Under no circumstances should a direct debit inwards (i.e. income) or a direct debit outwards (i.e. payment) be set up on an imprest account.
- D11.7 Under no circumstances should the balance on an imprest account be allowed to go overdrawn at the bank.

## **D12 Payment to Members**

D12.1 The Director of Finance is responsible for paying all allowances to Members.

D12.2 The Director of Finance will make payments to any Members entitled to claim allowances on receipt of the proper form, completed and certified in accordance with the Council's scheme for allowances.

## **D13 Taxation**

D13.1 It is the responsibility of the Director of Finance to:-

- a) complete all Inland Revenue returns regarding PAYE;
- b) submit the Council's VAT return to HMRC each month and complete a monthly return of VAT inputs and outputs to HM Revenue and Customs;
- c) provide details to HM Revenue and Customs regarding the Construction Industry Tax Deduction Scheme;
- d) maintain up-to-date guidance for Council employees on taxation issues.

D13.2 It is the responsibility of Directors to:-

- a) ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations;
- b) ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements;

- c) ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency;
- d) follow the guidance on taxation issued by the Director of Finance.

## **Contract Procedure Rules**

### **E1 Basic Principles**

E1.1 The aims of the Rules are to:

- (a) ensure compliance with all legal requirements;
- (b) achieve best value;
- (c) ensure transparency, openness, non-discrimination and fair competition;
- (d) demonstrate probity, consistency, accountability and integrity;
- (e) support the Council's corporate aims of value for money, best practice and leadership; and
- (f) ensure compliance with a Council Procurement Strategy.

E1.2 The principles of transparency, non-discrimination and equality are obligations that apply to all procurements and must be complied with at all times.

E1.3 Where these Rules provide for a decision to be made by a Director of Service, the decision may be delegated in writing by the relevant Director of Service to another Officer.

E1.4 These Rules are supplemented by Procurement Procedure Guidance ("PPG") as indicated. The PPGs will be updated as required so Officers must check the intranet site for the latest version.

### **E2 Statute**

E2.1 The Council is required by s.135 of the Local Government Act 1972 to make standing orders to ensure competition and regulate the procurement process.

E2.2 The Council must also comply with various other statutes when purchasing supplies, services or works, including the Public Contracts Regulations 2015 (the "Regulations"). Nothing in these Rules is intended to override national legislation.

E2.3 The risks of non-compliance are significant and include awards of damages and contracts being set aside.

### **E3 Compliance**

E3.1 These rules apply to the following undertaken by or on behalf of the Council:

- (a) the purchase of all supplies, services or works;
- (b) concessions<sup>1</sup>;
- (c) in circumstances where the Council is procuring supplies, services or works on behalf of a collaborative working arrangement; and
- (d) in circumstances where the Council is seeking a commercial partner for the purposes of a joint venture.

All references in these Rules apply equally to (a) to (d) above as appropriate and as advised by Procurement. All Officers are responsible for ensuring compliance with these Rules.

- E3.2 Third parties acting on behalf of the Council must also comply with the Rules. Officers instructing third parties to procure contracts must supply the third party with a copy of the Rules.
- E3.3 Officers and third parties must ensure that any conflicts of interest are avoided. Any conflicts of interest must be declared to appropriate line managers as set out in the Officer Code of Conduct. Legal advice must be obtained by Officers where any conflict has potential to impact on contractual relationships.
- E3.4 Corruption is a criminal offence. All Officers who let, manage or supervise contracts must act in accordance with the highest standards of propriety and ensure adequate records are kept.
- E3.5 Differences in the interpretation of these rules will be resolved by the Director of Governance in consultation with the Director of Finance.
- E3.6 These Rules do not apply to the sale, leasing or purchase of land or any interest in land or any contract of employment or loans or the sale, issue or purchase of any shares or other similar financial asset.
- E3.7 These Rules do not apply to an award of a contract in the following circumstances:
  - E3.7.1 any contracts between the Council and a company that is controlled by it (sometimes referred to as a Teckal company); or
  - E3.7.2 any contracts between the Council and a company that is jointly controlled by the Council with another contracting authority; or
  - E3.7.3 any contract which establishes or implements a co-operation between the Council and another contracting authority with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common and where implementation of the co-operation is governed solely by considerations relating to the public interest and participating contracting authorities perform on the open market less than 20% of the activities concerned by that co-operation.

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<sup>1</sup> Note that concessions have a different procedure see PPG 11



- E3.8 For contracts falling within the exceptions at E3.7, written advice from the Director of Governance must be obtained to ensure that the specific rules relating to the exceptions apply and to ensure that the award does fall outside of the scope of these Rules.
- E3.9 Additional supplies, services or works within the scope of a contract with a company that is wholly or jointly owned by the Council may be permitted but shall comply with the general provisions for authority to vary as found in paragraphs E12.7-E12.9. It may be possible to increase the scope of a contract falling within E3.7.1 and E 3.7.2, but before seeking to do so, the Officer shall prepare a business case demonstrating value for money. Increasing the scope of such a contract shall comply with the general change principles stated in paragraph 12.5 below, shall be recorded in writing by ODN and shall be authorised by the Director of Service and Director of Governance.
- E3.10 In calculating the total value of a contract, the following principles shall apply to determine the total value:
- (a) The total amount payable over the term of the contract plus any extension period, net of VAT, including any form of option and any renewal of the contract by all Council Services utilising the contract;
  - (b) Where the award of a contract involves lots, the total amount payable for all of the lots, net of VAT, including any form of option and any renewal of the contract by all Council Services utilising the contract; and
  - (c) For joint purchasing arrangements, the contract value shall be the aggregate of both parties' spend under the contract.
- E3.11 No Officer shall take any steps or omission which seeks to subdivide procurements or payments in order to avoid the application of the Rules or any part of the Rules or the Public Contracts Regulations 2015 (as amended).
- E3.12 Rules relating to grants and collaborative working arrangements are dealt with in Sections F and G of the Financial Procedure Rules.

#### **E4 Consequence of Breach**

- E4.1 Failure to comply with any of these rules may be considered a breach of the Officer Code of Conduct and may result in disciplinary action and legal proceedings against the Officer or third parties concerned. No Officer shall take any steps or fail to take steps to knowingly or recklessly seek to avoid the Rules.
- E4.2 Any Officer who fails to follow the Rules may lose the protection of the indemnity given to Officers by the Council and therefore may have personal liability for a contract or any losses.
- E4.3 Where it becomes apparent that a Service has failed to comply with the Rules the Director of Service must notify the Audit Manager. The Director of Service must compile a report outlining the reasons for the non-compliance and the steps taken to prevent a re-occurrence.



- E4.4 The Audit Manager will, if the breach of the Rules is significant, submit a report to the Chief Finance Officer, Director of Finance and Director of Governance with appropriate recommendations before reporting to Audit and Governance Committee.

## **E5 Review**

- E5.1 The Director of Governance will keep the Rules under review and shall have authority to make minor amendments and updates as required.
- E5.2 Any significant changes require the consent of full Council.
- E5.3 The Director of Governance will report to the Audit and Governance Committee who will make recommendations to Council.
- E5.4 The Director of Governance and the Director of Finance will keep Procurement Procedure Guidance under review and have authority to make such amendments and updates as required.

## **E6 Corporate Contracts**

- E6.1 Officers must always check if there is an existing Council contract in place before starting a new procurement activity.
- E6.2 If a Council contract exists, it must be used unless the contract allows for, and the Council's procurement unit ("Procurement") authorise, another course of action.

## **E7 Frameworks**

- E7.1 A framework contract is an agreement with suppliers which establishes the terms governing contracts from which orders for supplies, services or works may be placed or 'called off'.
- E7.2 Frameworks may only be used when:
- (a) the supplies, services or works required are clearly identified within the framework; and
  - (b) the framework allows the Council to participate; and
  - (c) the framework adheres to the aims of the Rules.
- E7.3 Officers must ensure that they follow the rules applicable to the framework which set out how individual contracts can be called off. Often this will involve a further procurement activity, referred to as a mini competition. Advice must be sought from Procurement. Advice must be sought from Legal Services concerning the contract terms to ensure the contract terms are acceptable.
- E7.4 Authority to establish a new framework agreement must be evidenced in an Officer Decision Notice (ODN) signed by the Director of Governance and Director of Finance before procurement activity is started and must be supported by a business case. The business case must clearly state the maximum value of the framework agreement, the range of contracting authorities able to call-off from it and monitoring arrangements in particular relating to the total spend under the framework and compliance with call-off procedures.

- E7.5 No framework agreement established by the Council shall exceed a contract term of 4 years unless exceptional circumstances exist which are substantiated and are related to the subject matter of the framework agreement. If a framework agreement is to exceed a term of 4 years then the reasons for this must be set out in the ODN to establish a new framework agreement (see E7.4).
- E7.6 No contracting authority shall be entitled to call off from a framework agreement established by the Council unless the contracting authority has signed an access agreement with the Council. The Director of Governance must advise on the most appropriate form of access agreement.

## **E8 In-house suppliers**

- E8.1 Various services can be provided internally from within the Council or by the Council's controlled companies, (see rule E3.7). Procurement can provide advice on utilising these services.

## **E9 Joint Procurement**

- E9.1 It is best practice to consider working with others either internally or externally where there may be benefits to a joint procurement with other service areas or public bodies to achieve economies of scale and prevent duplication.
- E9.2 Advice from the Director of Governance must be sought as to the most appropriate form of agreement for joint procurement activity and the apportionment of risk between the parties.
- E9.3 If the Council is responsible for any procurement under such joint arrangements which result in the Council entering into a contract with a supplier, the Rules must be followed.

## **E10 Authority to Proceed**

- E10.1 Before beginning a procurement, the Officer is responsible for ensuring that the appropriate authority and budget is in place. The form of the authority will depend on the value, strategic importance of the proposed contract, budget implications and risks.
- E10.2 Officers must consider whether the decision to procure is a key decision and if so, ensure that details are entered onto the Forward Plan.
- E10.3 Authority to proceed must be evidenced in writing. Acceptable forms of authority are:
- (a) minutes of the Cabinet; or
  - (b) Officer Decision Notice; or
  - (c) Member Decision Notice; or
  - (d) relevant extract from the appropriate Service Scheme of Financial Delegation; or

- (e) email or other written authority from the budget holder including confirmation that the budget is available.

E10.4 Officer decision notices are only required in relation to decisions to set up a framework E7.4, extend or vary a contract E12.5 or waive these rules E24.

## **E11 Insurance**

E11.1 Officers are responsible for checking that all chosen contractors provide written evidence of adequate insurance to cover public liability, employers' liability and if necessary professional indemnity for the full duration of the contract.

E11.2 Indemnity levels must reflect the risk to the Council which typically will be for each and every contract:

- (a) £10 million for public liability;
- (b) £10 million for employer's liability;
- (c) £1 to 5 million for professional indemnity;
- (d) At least £5 million for medical indemnity for public health services contracts.

E11.3 The levels required may be reduced following the written consent of the Insurance Team either as a one off in respect of a particular contract or, where other arrangements have been agreed, for particular types of contract. The Officer shall consider insurance risks and issues before commencing a procurement and shall seek any necessary approvals prior to issue of the invitation to tender.

E11.4 In some circumstances, it may be necessary to obtain specialist insurance. Officers shall be responsible for making enquiries with Insurance Team.

## **E12 Form of Contract**

E12.1 The form of contract must be identified. Every request for a quote ("RFQ") or invitation to tender ("ITT") must be accompanied by the appropriate form of contract. The Council's standard form of contract must be used. In exceptional cases, an alternative form of contract may be used such as the supplier's form of contract or a varied form of the Council's standard contract, but only after consultation with the Director of Governance and agreement of the relevant Director of Service.

E12.2 E12.1 does not apply to call-off contracts from frameworks. In addition, in appropriate circumstances, industry standards such as PSPC, NEC, JCT, JClI, ACE, RIBA & ICE may be used with the Council's additional standard clauses covering freedom of information and other local government specific issues. These additional clauses are available from Legal Services. Officers must ensure that the published RFQ/ITT includes the correct form of contract or refers to the correct industry standard.

E12.3 Letters of Intent will only be used in exceptional circumstances and with the consent of the Director of Governance.

- E12.4 Contracts with a value of less than £100,000 may be signed by two authorised officers in accordance with a Council Service Scheme of Financial Delegation. Contracts for £100,000 or more shall be sealed as a deed by the Director of Governance unless authority has been granted to the contrary by the Director of Governance.
- E12.5 A change to a contract, such as an extension of the contract period (in addition to any extension period included in the original contract), or a change to any of the terms or adding in scope to the supplies, services or works, is known as a variation to the contract. When drafting the specification for the ITT, it is good practice to provide for a variation in clear, precise and unequivocal words that state the scope of the variation(s) permitted and the conditions under which the variation(s) shall apply, provided that such variation(s) do not alter the overall nature of the contract. For example, the ITT may state additional supplies, services or works which may be included in the contract in the future, or an extension in time of the contract period.
- E12.6 In relation to above WTO GPA threshold procurements, variations to contracts shall only be permitted where the variation falls into one of the categories listed in Regulation 72 of the 2015 Regulations or as amended from time to time. Variations to such contracts shall be recorded in writing by Officer Decision Notice and shall be authorised by the Director of Service and Director of Governance. Procurement will ensure that appropriate notices are issued to comply with Regulation 72 requirements.
- E12.7 For procurements below the WTO GPA threshold, Officers shall not enter into variations which would extend the contract beyond the original scope or which would increase the contract price by more than an additional 20% of the original contract price, without the approval of the Director of Finance. Such approval shall be evidenced by ODN signed by the Director of Finance and the Director of Service. A business case will be required to obtain this approval. The Director of Finance will keep a record of such approvals. Any variation pursuant to this paragraph 12.7 shall comply with the principles in E12.5 above.
- E12.8 In all cases, any variation shall be agreed between the parties to the contract and as a minimum shall be recorded in writing and signed by the parties.
- E12.9 In no circumstances shall a variation be made to a contract which has ended or which has been terminated. If there is no provision within the contract terms for a variation of the type required, legal advice shall be sought.
- E12.10 Contracts must be effectively monitored throughout the period of the contract by the relevant Service and appropriate records kept until 7 years after the expiry of the contract.
- E12.11 Contracts shall not permit payment in advance except in respect of software licences, hardware or software support, HP leases, deposits, warranties or new or additional water, electricity and gas connections, instigated by a new build or refurbishment project, unless the Director of Service and Director of Finance agrees otherwise, such agreement to be recorded in writing. Part payments may be made during the contract period after the completion of a stage of work provided that the supplies, services, or works have been completed or delivered. The contract shall include a clear payment schedule which identifies milestones and payment dates

or shall identify the events and performance indicators which will trigger a part payment. No part payment shall be made unless the contract precisely sets out the payment schedule and the circumstances in which the part payment shall be made.

E12.12 Payments made under a contract shall be made in accordance with the relevant Service Scheme of Delegation.

### **E13 Bonds and Security**

E13.1 A performance bond or adequate security will be required where:

- (a) the nature and length of the contract is such that the risk of failure is sufficiently high; or
- (b) the estimated cost of re-establishing a service if the contract fails is relatively high; or
- (c) the financial and technical standing of the contractor is such that the risk of the failure is sufficiently high.

The decision as to whether a performance bond or other security is required shall be made by the Director of Service in consultation with the Director of Finance.

E13.2 The amount of the bond will be 10% of the total contract value unless otherwise agreed by the Director of Finance.

E13.3 Where the contractor is a limited company which is part of a larger group, the ultimate holding company may be required to provide a parent company indemnity in addition to or instead of a performance bond or other security.

### **E14 Compact for Cheshire West and Chester**

E14.1 The Compact for Cheshire West and Chester is a framework designed to build relationships between organisations in the public, voluntary, community and faith sectors.

E14.2 Where a procurement process may involve applicants from the voluntary, community and faith sectors, Officers shall comply with the requirements of the Compact for Cheshire West and Chester.

### **E15 Procurements of Supplies, Services or Works below the WTO GPA Threshold**

E15.1 Where the estimated costs of any Supplies, Services or works is less than the WTO GPA threshold, quotes shall be invited as outlined below

Level	Value of Contract	Procurement Process
Low	Less than <b>£5,000</b>	A minimum of <b>one</b> quotation be sought. Officers should seek to buy locally, to maximise the impact of the council's spending on the local economy.

<b>Intermediate</b>	<ul style="list-style-type: none"> <li>• <b>£5,000</b> to WTO GPA threshold for supplies and services</li> <li>• <b>£5,000</b> to WTO GPA threshold for Social and other specific services</li> <li>• <b>£5,000</b> to WTO GPA threshold for works</li> </ul>	A minimum of <b>three</b> electronic Request for Quotations ( <b>RFQ</b> ) to be sought from the market place, with a compulsory requirement to conduct the Risk Based Sourcing process ( <b>RBS</b> ) via the Procurement Team and use of The Chest; it is strongly recommended that more than three quotes are obtained to enhance competition; forward planning and engagement with the market place will help to ensure maximum competitiveness.
<b>High</b>	Greater than the WTO GPA threshold for supplies, services and works	A full <b>Tender</b> process must be undertaken via the Procurement Team in compliance with procurement legislation

E15.2 The WTO GPA threshold is reviewed biennially, and advice must be taken from Procurement as to the threshold at the time of planning a procurement.

E15.3 The procedure for under threshold procurements is explained in PPG2.

## **E16 Procurement of Supplies, Services or Works above the WTO GPA Threshold**

E16.1 The Public Contracts Regulations 2015 apply to above threshold contracts for the supply of supplies, services and works. There is a separate procedure, (known as the 'light touch regime'), for social care and health care contracts and other contracts specified in Schedule 3 of the Regulations as explained in PPG3.

E16.2 There are six types of procurement routes available for contracts exceeding the WTO GPA threshold:

- (a) Open Procedure;
- (b) Restricted Procedure (including through the use of a dynamic purchasing system);
- (c) Competitive Procedure with Negotiation;
- (d) Competitive Dialogue;
- (e) Innovation Partnerships and
- (f) Call Off from a Framework Agreement.

There is a separate procedure for some types of procurements, known as the light touch regime, which is explained in E16.1 and in PPG3.

E16.3 Advice shall be taken from Procurement as to the most appropriate type of procurement procedure. PPG4 is a general guide to the types of procurement procedures.



- E16.4 The procedures to be followed for each type of procurement at E16.2 (a) to (f) above are set out in the 2015 regulations and cannot be varied under any circumstances. PPG5 explains the procedure for the Open Procedure. PPG6 explains the procedure for the Restricted Procedure. The types of procurement at (c), (d) and (e) are not to be used unless the appropriate procedures apply. There is a separate procedure for social care and health care procurements and other contracts specified in Schedule 3 of the Regulations, see E16.1 above. Call-offs under a framework agreement shall follow the procedure set down by the framework authority.
- E16.5 Before commencing any above WTO GPA threshold procurement, advice must be taken from Procurement and if relevant, the Director of Governance.

## **E17 Remedies for breach of the Regulations**

- E17.1 The consequences for breaches of the Regulations for over threshold procurement are significant and include
- (a) setting aside of contracts following a declaration of ineffectiveness;
  - (b) financial penalties;
  - (c) awards of damages and costs to successful challengers;
  - (d) compensation to the contractor for repudiatory breach of contract;
  - (e) costs of delays in provision of the required supplies/services/works or
  - (f) costs of further procurement.
- E17.2 Officer compliance with these Rules and the Regulations is therefore essential.

## **E18 Timescales**

- E18.1 Procurements over threshold can take a minimum of 4 months and sometimes over 18 months to complete depending on complexity.
- E18.2 An accelerated procedure may be available for use in urgent circumstances after consultation with the Director of Governance. The Director of Service shall certify the urgency making it impractical to comply with the stipulated timescales.

## **E19 Electronic Tendering**

- E19.1 The Chest is the Council e-procurement software, which is used for competitive procurement activities of £5,000 and over.
- E19.2 Officers must use The Chest for all procurement with a value of £5,000 and over unless the Director of Finance has provided written consent for the exception or unless the procurement is being conducted through a framework which has its own e-procurement software, when it is permissible to use the e-procurement facility provided by the framework provider.

## **E20 General Rules for Procurements Involving an Element of Competition**

- E20.1 For procurements of £5,000 and over, Officers must contact Procurement before the commencement of procurement activities to agree the appropriate process which will ensure value for money and adequate competition.
- E20.2 The Officer is responsible for drafting a clear and robust specification. The specification must set out exactly what the Council requires and timescales for delivery.
- E20.3 Where a variant is permitted, the Officer must set out the minimum requirement(s) of the variant. Lots must be considered where appropriate and Procurement will advise on the best use of lots.
- E20.4 The tender documentation must as a minimum include:
- (a) the time, date and internet address for submission of tenders;
  - (b) information the supplier must provide;
  - (c) timescales for the project;
  - (d) the criteria for award;
  - (e) the contract documents and
  - (f) method for dealing with queries during the tender period
- E20.5 The tender documentation must state that the Council is not bound to accept the lowest or any tender.
- E20.6 The tender documentation must set out how errors in tenders will be dealt with using one of the following two ways:
- (a) the tenderer shall be given details of the error(s) found during the evaluation and shall be given the opportunity to confirm without amendment or withdraw the tender; or
  - (b) amending the tender to correct genuine error(s) provided that in this case, apart from these genuine errors, no other adjustment, revision or qualification is permitted.
- E20.7 The ITT must state that by submitting a tender the tenderer agrees to the Council's contract terms. There shall be no discussion or negotiation about the contract terms prior to the tender close date. Once an award has been made, modifications may exceptionally be necessary, for example to address an error, where an issue with consistency with the specification is identified or exceptionally where a condition is at odds with the approach in that sector of the market. Legal advice shall always be obtained to ensure that any modification is appropriately drafted. Such modifications shall comply with the general principles listed below:
- (a) the modifications shall not render the contract materially different from the one forming part of the ITT;
  - (b) had the modifications been included originally with the ITT, the modification would not have allowed for the admission of bidders other than those



initially selected OR for the acceptance of a tender other than that originally accepted OR have attracted additional bidders;

(c) the modifications do not change the economic balance of the contract in favour of the contractor in a way which was not provided for in the original contract;

(d) The modification does not extend the scope of the contract considerably.

Any modifications which do not fall within at least one of the conditions listed in (a) to (d) above shall require approval by ODN from the Director of Governance. Advice shall always be taken from the Director of Governance before agreeing to any modifications of the Council's contract terms.

E20.8 Evaluation criteria are the basis on which scores are given to assess responses. Tender evaluation criteria are assessed on:

(a) price or quality only or

(b) MEAT (Most Economically Advantageous Tender) based on a consideration of quality and cost or

(c) Life cycle costing or

(d) Fixed price with quality criterion only.

Guidance on evaluation criteria is contained in PPG7.

E20.9 A record of all tenders received shall be kept on the Chest and shall include:

(a) service name;

(b) bidder's names;

(c) tender value;

(d) date;

(e) reasons for any disqualifications for late tenders and

(f) name of those who were invited but did not submit a tender

E20.10 Any request for an extension to a tender period must be made no later than the period stated in the ITT and in any event before the tender close date and shall be agreed by the Director of Finance. If an extended date is permitted all tenderers must be advised.

E20.11 Clear written records must be kept of the assessment process. For procurements above the WTO GPA threshold, a report must be written and retained until the expiry of the contract term. Procurement shall advise what must be recorded in the procurement report.

- E20.12 Negotiation or discussion is generally not permitted except for certain types of procedures which permit negotiation or where it clearly states in the ITT that negotiation or discussion is part of the tender process. If used, negotiations or discussions must be recorded either contemporaneously or as soon as possible after the negotiation or discussion has concluded.
- E20.13 A contract procured under the Regulations cannot be entered into or a framework agreement concluded until the end of the standstill period. The standstill period is 10 calendar days from issue of the unsuccessful letters and intention to award letter. The period will be extended to the next working day if the standstill period ends on a non-working day. The standstill period ends at midnight.
- E20.14 Where timescales allow, for contracts below the WTO GPA threshold, a voluntary standstill period of 10 days between decision to award the contract and actual contract award can be implemented, depending upon the time available and whether it is appropriate having regard to the subject matter of the contract and other relevant circumstances.

## **E21 Abandonment**

- E21.1 If less than three tenders are received, consideration should be given as to whether continuing with the process will achieve a competitive price, value for money and quality of services. A further advertisement may be required.
- E21.2 Before abandonment or recommencement of an above threshold procurement, there shall be consultation with the Director of Governance to ensure appropriate procedure and risk management.

## **E22 Contracts Finder**

- E22.1 All relevant procurement opportunities which involve an element of competition over £5,000 shall be advertised on “Contracts Finder”. An element of competition means where the procurement opportunity is put into the public domain for the attention of suppliers generally. It does not include situations where a tender or quote is sought from a limited number of suppliers such as a call-off from a framework agreement or seeking quotes/tenders from selected suppliers.
- E22.2 An award of a relevant contract shall be notified on “Contracts Finder”.
- E22.3 PPG8 explains when an opportunity or award has to be advertised on “Contracts Finder”.

## **E23 Signing/Sealing**

- E23.1 All contracts with a value of £100,000 or over will be sealed as a Deed by the Director of Governance, unless authority has been granted to the contrary by the Director of Governance. Contracts below £100,000 may be signed by two authorised signatories in accordance with the Service scheme of delegation.
- E23.2 Contracts must be sealed or signed before work is started to ensure incorporation of terms. Making payments before the contract is sealed or signed may be a breach of the Rules and may result in disciplinary action.

## **E24 Waiving the Rules**

E24.1 Where an Officer intends to seek an exemption to these Rules on the grounds set out in E24.3, the Officer shall arrange for consent to be obtained in writing by way of Officer Decision Notice after consultation with the Director of Governance and the Director of Finance.

E24.2 Summary Table: Officers authorised to approve waiving of the Contract Procedure Rules:

<b>£5,000 - £25,000</b>	<b>£25,000 to £100,000</b>	<b>£100,000 to WTO GPA Threshold</b>	<b>Above WTO GPA Threshold</b>
Approval of Procurement Officer	Approval of Procurement Manager	Approval of at least two of the following: Director of Finance and Director of Governance or authorised representatives of the above and must in addition be signed by the relevant Director of Service	Unable to waive unless exempt from the Regulations and Director of Governance and the Director of Finance provide prior approval

E24.3 Requests to waive these rules for under threshold contracts may be authorised in the following circumstances following a robust review:

- (a) supplies, services or execution of works are obtainable only from one source or contractor and there is no reasonably satisfactory alternative; or
- (b) compatibility issues such that procurement from another source would be uneconomic given the investment in previous infrastructure; or
- (c) a waiver of the Rules would be in the interests of the efficient management of the service; or
- (d) where there is a legal requirement to contract with a particular supplier.

E24.4 All such exemptions shall be evidenced by Officer Decision Notice signed by the signatories identified in E24.2. Other than in exceptional circumstances, there shall be no retrospective approval of an exemption. In the case of exemptions between £5,000 and £25,000 completion of an ODN will not be required, but a record of approval retained by the Procurement Team.

E24.5 Where it has not been possible to advertise in the FTS portal and publish a contract award notice, the Council may, under Regulation 99(3) of the Public Contracts Regulations 2015, publish a Voluntary Transparency Notice, justifying the decision to award without prior publication of a contract notice. Authority to publish a Voluntary Transparency Notice must be documented in an ODN signed by the Director of Governance, Director of Finance, Chief Executive Officer or the Director of Service, providing full justification for the publication and future procurement plans.

E24.6 All Officer Decision Notices signed pursuant to E24.4 shall be held by the Audit Manager and shall be available for inspection as required.

- E24.7 The Audit Manager shall report to Audit and Governance Committee regularly on the number of decisions approved pursuant to E24.2 and E24.4 and the number of awards made pursuant to the value for money procedure set out in E15.1, E15.2.
- E24.8 In circumstances where a direct award of a contract has been approved through the value for money procedure set out in E15.1 or E15.2, there is no requirement to obtain the authorisation as set out in E 24.2.

## **E25 Payment of Undisputed Invoices**

- E25.1 The Council has a duty under the Public Contracts Regulations 2015 for every public contract (whether it is above or below the WTO GPA threshold) to pay undisputed invoices within 30 days. PPG9 explains the requirements for payment of undisputed invoices.
- E25.2 E25.1 does not apply to contracts awarded by a contracting authority which is a maintained school or an Academy nor does it apply to contracts for the procurement of health care services for the purposes of the NHS within the meaning and scope of the NHS regulations.

## **E26 Public Services (Social Value) Act 2012**

- E26.1 The Council must consider the social value of its approach to procurement and follow the guidance outlined in the Council's Social Value Policy.
- E26.2 PPG10 explains the requirements for social value.

## **E27 Schools**

- E27.1 The Scheme for Financing Schools (the "SFS") governs the management by each school of its delegated and devolved budget as determined in s.48 of the School's Standards and Framework Act 1998. Schools (other than foundation schools or academies) are expected to follow these rules but where there is conflict between the rules and the SFS, the SFS will take precedence.
- E27.2 Contracts over £60,000 let by schools spending budgets delegated to them under the SFS must be sealed by the Council in addition to signature by the School's Governing Body. Schools should follow the purchasing, tendering and contracting requirements at Section 5 of the SFS.

## **E28 Additional Matters**

- E28.1 PPG11 sets out additional matters which might be relevant to a procurement and Officers are advised to refer to PPG11 before commencing a procurement.

## **(External Arrangements)**

### **In this Section:-**

<b>Receiving Grants And External Funding</b>	
F1	Definition
F2	Authority to Submit and Accept Bids for External Funding
F3	Submitting Bids
F4	Accepting Grants
<b>Giving Grants Out</b>	
F5	Policy and Approval of Funding Intentions
F6	Written Agreements
F7	Funding Conditions
F8	Reporting
F9	Changing Existing Arrangements

### **Receiving Grants & External Funding**

#### **F1 Definition**

- F1.1 External funds can come from a variety of sources including Central Government Departments, European Union, National Lottery, private sector companies, charitable bodies, trusts, foundations or individuals.
- F1.2 For the purposes of this section “external funding activity” means any plans to seek external funding sources for projects or any funding bids being prepared or planned.
- F1.3 All external funding bids must be aligned with the Council’s priorities and have secured all resources necessary for successful delivery of the project.

#### **F2 Authority to Submit and Accept Bids for External Funding**

- F2.1 The approval process seeks to obtain approval to submit the bid, to accept the bid and to incur the expenditure (if successful) as a single approval process. This would mean that a separate supplementary revenue or capital estimate would not be required once the bid was accepted (provided that the grounds for accepting the bid are reasonable and not substantially different to the grounds upon which the bid was made).

- F2.2 The relevant Director must consider the impact on wider Council resources required to compile and submit the bid.
- F2.3 Roles and responsibilities
- (a) Directors must ensure any external funding activity has a Bid Lead Officer;
  - (b) Bid Lead Officers must liaise with their Director to ensure that all necessary permissions are obtained;
  - (c) Bid Lead Officers must work with their Director to undertake bid quality assurance and project risk assessments to identify budget implications, together with information on how the additional running costs/maintenance costs are to be funded. Bid Lead Officers must also consult the Departmental Finance Manager regarding the financial implications of the bid, including staffing resources;
  - (d) Bid Lead Officers must provide their Director with the sources and amounts of match funding and the corporate priorities the proposed project meets;
  - (e) The Director may decide to delegate these powers/responsibilities. Such delegations must be evidenced in writing but the delegator will remain ultimately responsible for ensuring compliance with these rules.
- F2.4 The Director of Finance will maintain a register of all external funding commitments which will be reported annually to the Audit and Governance Committee.

### **F3 Submitting External Funding Grant bids**

- F3.1 Bid submissions must be authorised in line with table 1 prior to submission. Approvals limits are based on the total value of the grant plus any Council contribution required in order that the full cost implications of such proposals can be considered and approved.

**Table 1: Approvals for the submission and acceptance of all external funding grant bids**

<b>Approval Route</b>	<b>Authorisations Required</b>	<b>Consultation Required</b>	<b>Total Value where match funding required</b>	<b>Total Value where no match funding required</b>
ODN	Service Director	Departmental Finance Manager	Up to £100,000	Up to £100,000

ODN	Service Director Director of Finance	Relevant Cabinet Member	£100,001 - £250,000	£100,001 - £250,000
ODN	Service Director Director of Finance Director of Governance	Relevant Cabinet Member Cabinet Member for Legal and Finance	£250,001 - £1,000,000	£250,001 and over
Committee Paper	Cabinet		Over £1,000,000  <i>*This will be a key decision where the match funding is over £1,000,000</i>	

F3.2 Authority to submit/accept bids is based on the total value of the grant plus any Council contribution required over the lifetime of the project/bid:

- revenue expenditure (within existing budgets);
- capital expenditure (within approved programme);
- support in kind from existing resources (including staff time);
- additional costs funded from reserves.

In addition the following factors must be considered and reflected in the approval documentation:

- the opportunity cost of committing existing resources for the duration of the external funding;
- capacity to deliver the project for which the grant bid is being submitted;
- a clear assessment of the way in which the bid contributes to the priorities within the Council Plan;
- the risks to the Council in delivering the grant outcomes including delivery mechanisms, accountable body status and claw back provisions

For the purposes of this section the term “within existing resources” means that there must be money available (uncommitted funding) within existing service area budgets.

F3.3 Any bid requiring funding from general reserves (including the Capital Reserve) regardless of value, must be approved by Council.

F3.4 The Bid Lead Officer will be responsible for obtaining the necessary authority and producing a briefing note for bids over £100,000, circulated to all Members.

F3.5 Submitting Expressions of Interest



The submission of genuine expressions of interest in a future bidding process do not fall within the scope of this section F subject to all of the following conditions being satisfied;

- this is a genuine expression of interest in a future bidding opportunity
- there is no commitment to submit a formal bid for external funding
- if the expression of interest is successful any formal submission of a bid will follow the process set out in this section F
- any match funding indicated in the Expression of Interest is conditional on further approval in accordance with this section F and already within existing resources
- no grant terms and conditions are entered into on behalf of the Council
- approval of an expression of interest is approved by way of an ODN and authorised by the Director of Service and the Director of Finance in consultation with the relevant Cabinet Member.

#### **F4 Accepting Grants**

- F4.1 Approval to accept and utilise grant funding should be sought as part of the original bid process. Should the final offer be for a significantly different amount or reflect significantly different objectives to the original submitted bid, the Bid Lead Officer should seek advice from the relevant Departmental Finance Manager as to whether further approval is required.
- F4.2 Bid Lead Officers must consult the Director of Governance regarding grant agreements before the acceptance of any grants. Grant agreements must be signed by the relevant authority as set out below.
- F4.3 Where the grant received will fund the undertaking of an activity not originally identified in the approved budget, or the funding received reflects an overall increase in the cash income or expenditure of the Council, a supplementary revenue estimate or a virement will automatically be actioned following confirmation of acceptance of the grant. This will increase the approved budget in the relevant service area.

### **Allocation of Grants, Donations and Other Discretionary Contributions**

#### **F5 Approval of Funding Intentions**

- F5.1 The Cabinet will, on a periodic basis, agree the approach to be taken to the funding of, and investment in groups that further social, environmental or cultural objectives, such as voluntary and community organisations, faith groups and social



enterprises (including the allocation of grants, donations, and other discretionary contributions

F5.2 Funding intentions of this nature must be approved annually by the Cabinet or its nominated representative. As well as third sector funding, this should include discretionary payments to any type of organisation to sponsor or promote events that are outside the Council's normal activities.

F5.3 Further approval will be required for grants, donations or other discretionary contributions not originally included in the annual report to the Cabinet as follows:

<b>Approval level</b>	<b>Value of Contribution</b>
Directors	Up to £10,000
Directors in consultation with Director of Finance and Director of Governance (or their nominated deputy) and relevant Cabinet Member	£10,001 to £50,000
Cabinet Member Legal & Finance and relevant Cabinet Member	£50,001 to £500,000
Cabinet	Over £500,000

F5.4 A central register of all grants, donations or other discretionary payments will be maintained by the Head of Compliance & Assurance. Directors will be responsible for informing the Head of Compliance & Assurance of any grants, donations or other discretionary payments for this purpose.

## **F6 Written Agreements**

F6.1 All discretionary grants, donations or other discretionary financial contributions, whether contractual in nature or not, must be set out in a written agreement, the content and format of which must be approved by the Director of Governance. The written agreement templates will:

- a. Provide a set of standard conditions that apply to all grants, donations or other discretionary financial contributions;
- b. Allow officers to set out the funding purpose, duration, outputs, performance targets, monitoring and audit requirements, method and timescale for payment, and any specific conditions that need to be applied to the award.

F6.2 Before using any of the standard templates, advice should be sought from Legal Services where any of the following apply:

- a) The agreement has, or may have TUPE implications, in respect of the transferring of staff or services from one organisation to another (including the Council);

- b) The agreement has been brought about by a joint procurement or commissioning process involving parties external to the Council;
- c) The agreement includes arrangements for the leasing of premises from the Council other than by way of a standard full-market rent payment funded through the agreement;
- d) All or some of the funding has been sourced from finances external to the Council's own budget. i.e. is funded wholly or in part through external funding;
- e) The funding includes support for capital expenditure as defined by the Council's Financial Regulations at the time the support is awarded.

F6.3 Written agreements must be signed by the relevant authority as set out below:

<b>Value of the grant given out by the Council</b>	<b>Authorised Signatory</b>
Up to £100,000	Two authorised signatories as set out in the Service Scheme of Financial delegation
Over £100,000	Sealed as a deed by Legal Services

## **F7 Funding Conditions**

- F7.1 Where funding for outside bodies is provided by third parties, for example Central Government, Officers must ensure that the funding is used in a way that complies with any conditions attached by the funding provider.

## **F8 Reporting**

- F8.1 In accordance with the 2014 Local Government Transparency Code, the Council is required to externally publish actual payments to third sector organisations on an annual basis.
- F8.2 Actual payments made will be published on the Council's website by the end of April following the financial year to which they relate and reported to Cabinet or its nominated representative.

## **F9 Changing Existing Arrangements**

- F9.1 Before changing existing arrangements with the voluntary, community and faith sector, whether funded by grants or procured competitively, Officers shall ensure that:-

- a) an Equality Impact Assessment is carried out and the outcome taken into account in decision making;
- b) the Council's Compact for Cheshire West and Chester is complied with;
- c) a minimum 3 months written notice to withdraw funding is provided to the voluntary, community or faith sector organisation;
- d) consideration is given as to whether TUPE applies;
- e) any guidance issued by the Council on de-commissioning is followed.

## Collaborative Working and ASDVs

### **In this Section:**

G1	General
G2	Written Agreement
G3	Accountable Body
G4	Collaborative Working Approval Process
G5	ASDV Background
G6	Approval to set up an ASDV
G7	Approval process once the ASDV is operational - Shareholder
G8	Approval process once the ASDV is operational – Customer/Supplier
G9	ASDV Reporting
G10	Directors of ASDVs

## **G1 General**

- G1.1 The term “collaborative working” covers a wide array of joint working arrangements. For the purposes of this section, the term “collaborative working” means working with one or more third parties collectively to achieve a shared objective.
- G1.2 The Council’s contribution to collaborative working may be capital, revenue or contributions in kind such as staff time, and contributions of any kind fall within this section.
- G1.3 This section does not cover public to public or public to private contractual arrangements. This is covered under section E of the Finance and Contract Procedure Rules.
- G1.4 In any circumstance where the Council undertakes procurement in respect of collaborative working, the Council’s Finance and Contract Procedure Rules shall apply.
- G1.5 The Council will maintain a register of significant partnerships and all significant partnerships will be subject to an annual review which will be reported to Audit and Governance Committee.
- G1.6 As a measure of best practice, all collaboration agreements should be subject to a complete review at least every 4 years.
- G1.7 Any collaboration which involves the creation of or participation in a separate legal entity (Alternative Service Delivery Vehicle (ASDV)), such as a limited company, trust or charity, must be set up and approved in accordance with the governance arrangements as set out in section G6.

## **G2 Written Agreement**

- G2.1 All collaborative working arrangements must be recorded in writing, the content and format of which must be approved by the Director of Governance. All arrangements which involve the commitment of significant Council resources (be they finance, staff, land, buildings or equipment), or where the Council acts as an accountable body, must have a formal agreement in place approved by the Director of Governance.

## **G3 Accountable Body**

- G3.1 Any collaborative working in which the Council is to act as Accountable/Responsible Body must be approved by the relevant Director and the Director of Finance.
- G3.2 Where the Council does act as the Accountable Body, the full cost of providing any services or functions must be charged to the collaborative working arrangement (including a fair share of corporate overheads or equivalent in kind contribution).

## **G4 Collaborative Working Approval Process**

- G4.1 The approval process for participation in a collaborative working arrangement is based on:
  - a) Compliance with and contribution to corporate outcomes
  - b) The scale of the Council’s contribution (in financial and non-financial terms)
  - c) The scale of the expenditure for which the Council will become accountable.
- G4.2 Any Council’s financial contribution which is not already included in the approved

budget, will need approval in line with the limits set out in section G4A of the Finance and Contract Procedure Rules (sections A5-A8). The financial contribution of the Council should be assessed over the anticipated lifetime of the collaborative working arrangement.

- G4.3 Each Director is responsible for preparing regular reports for the Cabinet Member outlining the key outcome and achievements from each collaborative working arrangement. The report should also review the affordability and continued relevance of the arrangement to the Council's corporate objectives.

## **G5 Council Companies/ASDVs**

- G5.1 The term Council Company or Alternative Service Delivery Vehicle (ASDV) refers to a range of different organisations which:
- a) have been set up by the Council, either alone or with a partner
  - b) are legally separate from the Council
  - c) are operationally independent of the Council, but over which the Council has retained significant control of key strategic issues.
- G5.2 ASDVs can take a number of different legal forms. The main types include company limited by shares, company limited by guarantee, community interest companies and trusts.
- G5.3 Each ASDV will have its own governance arrangements, business plan and policies and procedures for managing its business, which may differ from those of the Council.
- G5.4 In some cases the Council will have several distinct relationships with the ASDV. Each of these relationships is subject to different rules and processes. Each relationship is defined by a relevant governance document setting out the requirements for each party:
- a) as shareholder/owner of the business – via a shareholder agreement
  - b) as a customer or supplier of goods or services – via service contracts
  - c) as a landlord providing premises – by formal lease documents
  - d) as funder/underwriter of risks – by loan/investment agreements
- G5.6 The effectiveness and ongoing value of these arrangements are subject to regular monitoring by officers, Cabinet and reporting to Cheshire West and Chester Scrutiny Committee.

## **G6 Approval to set up an ASDV**

- G6.1 The Council's overall Company Strategy sets out the common principles which should apply across all its ASDVs, and the strategic objectives they are expected to support. The contribution of any new ASDVs to this overarching strategy should be explicitly considered in any decision to create a new company. Material changes to this strategy must be approved by Cabinet.
- G6.2 Setting up a new ASDV is likely to be an expensive, complex and time consuming process requiring significant input from a number of Council services. To ensure consistency with corporate priorities and minimise the risk of abortive costs, the set up needs to be in 3 distinct stages:
- a) Approval of an initial expression of interest setting out the potential benefits and risks of creating a new ASDV. To be approved by Chief Officers in consultation with Director of Finance to develop a Business Case to establish a new ASDV
  - b) Production of a Strategic Outline Business Case (OBC) to demonstrate how the development of an ASDV would be beneficial to the Council. This

should consider issues such as operational outcomes, value, affordability, governance, capacity to deliver and risks, and compare these to alternative models.

c) Production of a Full Business Case (FBC) setting out the detailed case for introducing the ASDV and a proposed implementation plan.

- G6.3 Cabinet approval to progress will be required at the end of both OBC and FBC stages.
- G6.4 Council direct support to an ASDV in return for the provision of services is subject to the same approval requirements as support to any other third party organisation.
- G6.5 The Council may also offer indirect support to an ASDV. The provision of such support typically involves the Council taking on risks and should be explicitly approved by Cabinet as part of the Final Business Case. Specific approvals would be required for area such as:
  - a) Council pension guarantees or other financial guarantees
  - b) Provision of working capital loans or facilities
- G6.6 Prior to the operational launch of a new ASDV the company will be required to produce an initial business plan covering at least the first year of its life. This will set out the ASDV's mobilisation plan, key priorities, performance targets, budgets, management structure, risk strategies etc.

## **G7 Decision Making once an ASDV becomes operational – Decisions as Shareholder**

- G7.1 While operational decision making for an ASDV will be undertaken by the appointed Company Board or management team, the Council will retain a range of strategic decision making powers as Reserved Matters. These give the Council the ability to control key aspects of the company's business strategy to ensure it remains aligned with the Council's priorities and principles.
- G7.2 The specific list of reserved matters will vary depending on the nature of the Council's ownership role but standard reserved matters would typically include:
  - a) Altering the Company's Articles of Association
  - b) Selling part of the business, forming a subsidiary, acquiring shares in any other company or merging with any other undertaking.
  - c) Changing the nature of the business.
  - d) Giving notice of termination of any arrangements, contracts or transactions which are material in the nature of the Business
  - e) Declaring or paying a dividend or amending any profit-sharing, share option, bonus or incentive scheme of any nature for directors or employees.
  - f) Appointment or removal of Directors or changes to remuneration packages
  - g) Making changes to pension arrangements for staff including any decision to close the pension fund to new recruits.
- G7.3 The Cabinet Member for Legal and Finance is responsible for making decisions that relate to the Council's role as shareholder or owner of the ASDV. This applies to



both those decisions that have been specifically reserved to the Council and others of a similar nature. These decisions must be recorded in line with standard procedures for decisions made by an individual Cabinet Member. For these purposes, expenditure by the ASDV is not to be regarded as expenditure by the Council.

- G7.2 Where shareholder decisions are reserved to the Council but are administrative in nature or would have been within the authority of officers had they related to a Council service; then approval can be given by the relevant Chief Officer. No officer can approve a decision on behalf of the shareholder if it also directly affects them or their services as a customer or supplier.
- G7.6 Each ASDV will have its own equivalent of the Councils FCPRs. Changes to these documents will generally not require any approval from the Council.
- G7.7 The ability of the Council to wind-up or liquidate an ASDV will be set out in the Shareholder Agreement or Articles of each ASDV. Putting an ASDV into liquidation is likely to be a significant step with major HR, legal, financial and service delivery implications. It is therefore likely that such a decision will require Cabinet approval.

## **G8 Decision Making once an ASDV becomes operational – Decisions as Customer/Supplier**

- G8.1 If the Council wishes to change the scope and/or range of services delivered by the ASDVs, this will generally require the agreement of both the Council and the company. Council approval to change the scope/range of services should initially be obtained from Chief Officers in consultation with Director of Finance. Further approval will depend on the size and nature of services covered by the proposed change and therefore advice should be obtained from the Director of Governance. Company approval will depend on each company's own governance processes.
- G8.2 If the ASDV supplies goods or services to the Council, then generally the standard FCPRs applicable to any 3rd party supplier should be applied to decisions affecting the ASDV in its role as a supplier. The primary exception is ASDVs which are Teckal exempt. In these cases, the Council can award contracts to the ASDV without a competitive procurement process. The award of a contract under a Teckal exemption should still be subject to a business case assessment demonstrating value for money is being achieved.
- G8.3 Where the Council is commissioning goods or services that could realistically be supplied by one of its ASDVs there is an expectation that they will be given fair consideration for that work. The commissioning service is required to carry out a Companies Test assessment to demonstrate that they have considered whether or not their needs could be met by an ASDV, and where that is a possibility that company have been given the opportunity to bid for that work.
- G8.4 The Companies Test does not presume that ASDVs are awarded work if they cannot offer value for money or meet the necessary specifications, it does however require that they are given the opportunity to bid for work where appropriate.

## **G9 Reporting**

- G9.1 Each ASDV will be required to provide regular shareholder financial and performance reports to the Council. The form and timing of reports will be defined by the Director of Finance and Director of Governance.
- G9.2 These reports will in the first instance be considered by a Shareholder Board. This Board comprises corporate and service officers who consider the company's performance against its approved business plan priorities, delivery of Council



objectives and financial performance and stability.

- G9.3 If the ASDV supplies services to the Council it will also have to provide performance reports in accordance with its contractual obligations. These contractual performance reports will be incorporated as part of the standard Officer/Member process used for all suppliers.
- G9.4 The key messages from these reports are reported to the Management Board and the Cabinet Member for Legal and Finance on a quarterly basis. The Scrutiny role in respect of the performance of ASDVs is provided by the Cheshire West and Chester Overview and Scrutiny Committee

## **G10 Directors of ASDVs**

- G10.1 The Council may be entitled to nominate Directors to sit on the Company Boards and represent the Council's views. This role would typically be carried out by Directors or Senior Managers. The role of Director includes some significant personal responsibilities and liabilities. It is therefore important that advice from the Director of Governance is sought before becoming a Director.
- G10.2 Each ASDV will also have a nominated lead Member from the Cabinet based on their portfolio responsibilities. This Member will have an open invite to participate in relevant strategic and Board meetings, but this would be in an advisory capacity and not a direct decision making role.

## **Glossary**

"Appropriation"	Amounts transferred between the Revenue account and revenue or capital reserves
Bad debt	A debt owed to the Council where the cash will not be collected and therefore the debt needs to be written off. See also provision for bad debts below.
Balances (Revenue Account)	The accumulated surplus of income over expenditure. Members may agree that Balances be used to reduce future Council Tax precepts although a minimum level, consistent with prudence and best practice will be maintained. Amounts in excess of that required for day-to-day cash management and to finance working capital can be invested to generate interest income to the Authority.
Blight	An individual's property may be blighted if there is a proposal to build nearby and this will adversely affect the property. The Authority may be required to purchase the property under a Blight Notice.
Capital Approval	The capital programme provision as amended by any supplementary estimates or virements.
Capital Expenditure	Expenditure over £10,000 on the purchase, construction or replacement of capital (fixed) assets or expenditure which adds to the life or value of an existing fixed asset.
Capital Programme	The Authority's plan of capital projects and spending over future years. Included in this category are the purchase of land and buildings, the erection of new buildings and works, Highway Improvement schemes and design fees, and the acquisition of vehicles and major items of equipment.

Capital Project/Scheme	These terms mean the same thing and are used interchangeably within these Rules. A project/scheme may be separately identified in the capital programme or be an item within a themed allocation (for example ICT or building maintenance).
Capital Receipts	Income received from the sale of capital assets and available, subject to rules laid down by the Government, to finance new capital expenditure or to repay debt.
Carry Forward	An increase or reduction in a Service's new financial year budget, stemming from either an under or overspend in the previous year. All carry forwards (except for Schools) need the approval of the Cabinet upon the presentation of a business case.
Chief Officers	Chief officers are the Chief Executive or any Director of the Council to whom there has been specific delegation in writing by the Council or the Chief Executive.
Commitment	The value of any order or contract placed, prior to payment for goods / services having been made.
Contingencies	Sums set aside as part of the Councils budgets to meet either: (a) the potential costs of activities expected to occur during the year over and above those costs included in Service budgets (pay and price contingency); or (b) items which are difficult to predict in terms of financial impact or timing (contingency for uncertain items).
Council Fund	The Council's main revenue fund to which all revenue receipts are credited, and from which revenue liabilities are discharged. The movement on the fund in the year represents the excess of income over expenditure within the Consolidated Revenue Account. The level of balances held is based on the Council's assessment of the level of risk and uncertainty and the potential call on such reserves.
Debt Write-Off	Realising the cost of debt which is considered to be "bad" (unrecoverable) by writing it off against the revenue account or bad debt provision.
Earmarked Reserves	Reserves that can only be used for a specific use or purpose.
Financial Year	The Council's accounting period covers the 12 months from April 1 to March 31.
Key Decisions Plan	Defined in the Constitution.
Internal Control	A procedural system designed to manage risk to an acceptable level whereby different staff members perform different parts of a task, so that no one person is entirely responsible for processing a transaction from start to finish.
Key Decision	Defined in the Constitution.
Leases	Agreements covering the hire/rental of equipment or buildings, generally for a specified period of time and at a specified rate. There are two types of leases, Operating and Finance
Leases (operating)	A lease where the risks and rewards of ownership remain with the lessor.
Leases (finance)	A lease where most of the risks and rewards associated with ownership are transferred to the lessee (responsibility for maintenance, insurance, etc. will fall to the Council)

Official Journal of the European Union (OJEU)	The daily publication of tender notices issued by the European Union.
Option Appraisal/Business Case	This is required for all Capital schemes and all significant revenue proposals and takes the form of a Business Case Template. This will be used to assess whether the scheme is affordable, deliverable and in accordance with the corporate plan. Consequences to the Service are considered and evaluated and it will also provide a basis for monitoring and reporting progress. In the case of revenue proposals it will also take into account the risk and impact on users.
Policy and Expenditure Planning	The Council's annual cycle of planning for the medium and short-term future, aimed at achieving optimal allocation of available resources.
Policy and Expenditure Proposals	Proposals, including new policies, which have resource implications and will be subject to appraisal by Members, the Corporate Management Team and external consultees before inclusion in the annual budget.
Procurement	The process of acquiring goods and services, which includes the choice of supplier, the specification of goods / services required and the initiation of a purchase order or contract agreement.
Provision	An amount set aside by the Authority for any liabilities of uncertain amount or timing that have been incurred. The main category is estimates of liabilities or losses already incurred but whose exact amount will be determined in the future (e.g. bad debts, obsolete stock). See also Capital Provision and Provision for Doubtful Debt.
Provision for Doubtful Debt	An allocation of funds set aside from Service revenue budgets to cover amounts which may not be recoverable from debtors.
Prudential Borrowing Limits	The maximum amount of borrowing that the Council can enter into at any one point in time during the year. This limit is set by Council prior to the start of the year to which it relates and cannot be breached under any circumstances.
Quotation	An informal priced offer setting out the terms and conditions to supply requested goods or services.
Revenue Account	The Account which sets out the Council's income and expenditure for the year for non-capital spending.
Revenue Expenditure	Spending on the day-to-day running expenses of the Council. It includes expenditure on employees, premises, transport and supplies and services.
Ring Fencing	Certain budgets agreed by the Director of Finance are "ring-fenced". This means that under-spends on these budgets will return to balances and overspends will be met centrally. This is to reflect the fact that certain items of expenditure are either demand-led or so significantly influenced by extraneous factors that they are beyond the direct control of managers. Ring-fenced budgets include planning levies, external audit fees and election expenses.
Schemes of Delegation	Schemes of Delegation are the documents that set out, for each Service, all authorisations and approval limits as delegated by the Directors of Service to Authorised Officers

	within their Service. Directors of Service are responsible for maintaining up to date and accurate Schemes of Delegation. (See also: Financial Schemes of Delegation)
Service Plan	A plan which outlines measurable Service aims for the year ahead, encompassing both core purpose and specific key objectives for any given year. The Plan will consider both inputs and outputs.
Starts value"	Represents the full value of the Council's contribution to a Capital Scheme irrespective of the timing of the payments.
Supplementary Capital Estimate (SCE)	Additional resources approved by Members with funds either provided by a third-party (e.g. developer contributions, receipts, government grant), by the use of Council reserves or from the Revenue budget.
Supplementary Revenue Estimate (SRE)	An approved increase to a Service revenue budget during the financial year, funded centrally from reserves, contingencies or external funding sources such as grants or partner contributions.
Tender	A formal priced offer in response to an invitation to supply goods or services against a specification.
Tenderer	Any person or organisation invited to submit a Tender.
Third Party Funds	Funds provided by outside bodies or individuals in support of Council activities, establishments or clients. Can sometimes be known as trust funds.
Threshold	The financial level at which award of contract regimes under prevailing European Union Procurement Directives are applicable.
Underspend	An underspend results when the net costs of a budget holder are lower than the net budget for the year.
Virement	A Revenue virement is a transfer of amounts from one budget heading to another within, or between, Directors of Service. Capital virements cover any changes to Capital budgets funded from within the existing Capital programme.
Voluntary Transparency Notice	A notice providing justification of the decision of the Council to award the contract without prior publication of a contract notice, in accordance with the requirements of Regulation 99(4) of the Public Contract Regulations 2015.