

**PART 4**

Rules of Procedure

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A Council and Committee Procedures

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## SECTION I - MEETINGS OF COUNCIL

**Ruling of the Mayor at Council Meetings**

- A1.1 The ruling of the Mayor as to the construction or application of these Standing Orders, or as to any proceedings of the Council, may not be challenged at any meeting of the Council.

**Annual Meeting of the Council**

- A1.2 Each year the Council will hold an Annual Meeting. In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days after the retirement of the outgoing Councillors. In any other year, the Annual meeting will take place in March, April or May. In addition to the Annual Meeting the Council may arrange a civic function to mark the inauguration of the Mayor.

- A1.3 The order of business at the first Annual Meeting of the Council following borough-wide elections will be:

- 1 Election of Mayor.
- 2 Appointment of Deputy Mayor.
- 3 Apologies for absence.
- 4 Announcements (if any).
- 5 Election of Leader.
- 6 Leader to notify the Council of the appointment of Cabinet members.
- 7 Delegations and Executive Responsibilities.

The Leader to report:

- (a) as to the allocation of Cabinet Portfolios;
- (b) on the delegation of executive functions to cabinet committees and other arrangements for the discharge of executive functions.

- 8 Notification from the Party Groups as to the Members appointed as Leader and Deputy Leader of the Opposition (largest Minority Group), other party leaders, and party whips.
- 9 Establishment of Committees to deal with matters which are neither reserved to the Council nor are executive functions; determination of the terms of reference and number of seats on such committees and the allocation of seats to political groups in accordance with the political balance rules.
- 10 Appointment of the memberships of Committees for the ensuing year (in accordance with nominations made by party groups) and the appointment of Committee Chairs and Vice-Chairs.
- 11 Approval of a programme of ordinary meetings of the Council and its Committees for the ensuing year.
- 12 Appointment of representatives to serve on outside bodies.
- 13 Consideration of any other business set out in the notice convening the meeting.

## A1.4

The order of business at the Annual Meeting of the Council other than following the borough elections will be:

- 1 Election of Mayor.
- 2 Appointment of Deputy Mayor.
- 3 Apologies for absence.
- 4 Announcements (if any).
- 5 Delegations and Executive Responsibilities.

The Leader to report:

- (a) as to any changes to the Cabinet;
- (b) as to the allocation of Cabinet Portfolios;
- (c) on the delegation of executive functions to cabinet committees, chief officers and joint committees and other arrangements for the discharge of executive functions.

- 6 Notification from the Party Groups as to the Members appointed as Leader and Deputy Leader of the Opposition (largest Minority Group), other party leaders, and party whips.
- 7 Establishment of Committees to deal with matters which are neither reserved to the Council nor are executive functions; determination of the terms of reference and number of seats on such committees and the allocation of seats to political groups in accordance with the political balance rules.
- 8 Appointment of the memberships of Committees for the ensuing year (in accordance with nominations made by party groups) and the appointment of Committee Chairs and Vice-Chairs.
- 9 Approval of a programme of ordinary meetings of the Council and its Committees for the ensuing year.
- 10 Appointment of representatives to serve on outside bodies.
- 11 Consideration of any other business set out in the notice convening the meeting.

### **Ordinary Meetings of the Council**

- A1.5 Ordinary meetings of the Council will be held on dates determined by the Council, or called by the Chief Executive for the transaction of general business.
- A1.6 The order in which business appears on the agenda at ordinary meetings of the Council will be as follows:
- 1 Apologies for Absence.
  - 2 Minutes of the Last Meeting.
  - 3 Announcements.
  - 4 Declarations of Interest.
  - 5 Notice of Members wishing to exceed the 5 Minute rule.
  - 6 Petitions.

- 7 Deputations.
- 8 Public Questions.
- 9 Members' Questions.
- 10 Matters for Early Debate.
- 11 Reports from the Cabinet in relation to the Council's budget and policy framework.
- 12 Reports for decision of the Overview and Scrutiny Committee, its Sub-Groups or Scrutiny Panels.
- 13 Reports for decision of other Member-Level bodies.
- 14 Reports of Officers.
- 15 Motions of which Notice has been given.
- 16 Information reports, as appropriate, on matters considered by Council Committees.
- 17 Any further business as specified on the agenda.

### **Special Meetings of the Council**

A1.7 Special meetings of the Council will be held as follows:

- (a) on the instructions of the Council, or the Mayor, or the Leader for the purposes of considering items of business requiring a more detailed discussion than might be possible at an ordinary meeting.
- (b) on the instructions of the Chief Executive or the Monitoring Officer in order to deal with statutory business within laid down timescales, or in other special circumstances.
- (c) on requisition in writing by five Members of the Council, specifying the business to be transacted at such meeting.

A1.8 The Chief Executive, after consulting the Mayor and the Leader, will determine the date and time of a Special Meeting. A special meeting requisitioned by five Members will be held within two weeks of receipt of notice of requisition. (Local Government Act 1972, Schedule 12, Para.3)

A1.9 At special meetings of the Council called under paragraph A1.7, only items 1, 3, 4, and 5 of the list at paragraph A1.6, plus the item(s) of special business, may be taken.

### **Variation in the Order of Business**

A1.10 The order of business at ordinary and special meetings of the Council may be varied as follows: -

- (a) In the absence of the Mayor, the first item of business will be to appoint a Chair for the meeting;
- (b) The Mayor, or the Council on a motion put, seconded and carried without debate, may vary the order of business after items (1) to (5) have been disposed of;
- (c) The Mayor may determine that related items of business may be taken together.
- (d) At ordinary meetings only, under paragraph A1.46, each political party may select one item each on the agenda for 'Early Debate'.

### **Date and Time of Council Meetings**

A1.11 Except as permitted under paragraph A1.12, all meetings of the Council will commence at 19.00 hours unless otherwise decided by the Council.

A1.12 The Mayor may, at his/her discretion, vary the date and time or cancel a meeting of the Council due to lack of business or other special circumstances.

### **Notice of Council Meetings**

A1.13 At least five clear days (excluding Saturdays, Sundays and Public Holidays) before a meeting of the Council, the Chief Executive will send



notice of the time and place of the meeting, and an agenda, to every Member of the Council. In cases of urgency, a meeting may be called at less than five days notice, in which case the notice and agenda will be sent immediately. If, despite notice of a meeting having been issued, one or more Members do not receive notice, the validity of the meeting will not be affected.

### **Quorum**

- A1.14 The quorum of the Council is one-quarter of the whole number of Members of the Council.
- A1.15 If a quorum is not present within half an hour after the time the meeting was due to commence, the meeting will be abandoned and the Chief Executive will arrange a new date and time after consultation with the Mayor.
- A1.16 If during the meeting, a quorum ceases to be present, no further decisions may be taken until a quorum is again present. The Mayor may call a short adjournment, or may end the meeting with any remaining business deferred to a special meeting at a time and date to be determined by the Mayor, or until the next ordinary meeting.

### **Minutes**

- A1.17 The minutes of every meeting of the Council will be printed and presented to the next following Ordinary meeting of the Council for confirmation. Where this is impracticable owing to the shortness of time between meetings, the minutes will be presented to the Ordinary meeting of the Council next following that meeting.
- A1.18 Minutes may be challenged on accuracy only, before they are signed.

### **Petitions**

- A1.19 Any Member of the Council may present a petition and may read or summarise briefly the substance. Petitions will be received without debate and referred to the relevant Chief Officer, copied to the corresponding Cabinet Member, for investigation and response. The outcome of the investigation to be reported back to the Full Council within two meetings.

### **Deputations**

- A1.20 Deputations representing a group of members of the public, who are residents or tax payers in the Borough or businesses based in the Borough, may apply to address the Council at an ordinary meeting on a matter in which the Council has powers or duties. Application may be made by giving notice to the Chief Executive not later than one week prior to the meeting concerned, but the Mayor may, at his/her discretion, allow an application at shorter notice.
- A1.21 The Mayor will determine whether or not to agree to receive the speakers as a deputation to the Council meeting. If a request is not agreed, the Chief Executive will write to the person or persons concerned explaining the reasons for the decision.
- A1.22 There is no limit on the number of persons forming a deputation, but no more than two may speak, and their speeches must be limited to seven minutes in total unless extended with the agreement of the Council.
- A1.23 After presenting their case, the members of the deputation will take no further part in the meeting.
- A1.24 The appropriate Cabinet Member, or another Member invited by the Mayor, may speak in response.
- A1.25 Paragraph A1.20 shall not apply where the matter concerned appears as an item of business on the agenda for the relevant Council meeting. In such circumstances the provision for public involvement at a meeting under paragraph A1.37 shall apply.

### **Public Questions**

- A1.26 A maximum of 30 minutes will be allowed at ordinary Council meetings for questions by members of the public, subject to the discretion of the Mayor. Members of the public wishing to ask questions must give notice of their questions to the Chief Executive no later than noon five working days before the meeting.
- A1.27 Each member of the public will be restricted to a maximum of two questions at any one meeting. Each question must consist of no more than one part.

- A1.28 All questions must relate to matters in which the Council has powers or duties.
- A1.29 The Mayor, acting on the advice of the Chief Executive, has the power to disallow any question he/she feels to be improper. In addition, questions will not be accepted if they fall into one of the following categories:-
- (a) if a question in the same substance has been put by the same individual or organisation in the previous three months, unless there has been a change in Council policy in that time;
  - (b) if a question is on a personal basis;
  - (c) if the questioner is not a resident or local taxpayer of the Borough, or a business based in the Borough;
  - (d) if the questioner is a Council employee or former employee and the question arises from their current or previous employment of work;
  - (e) if the question is defamatory, frivolous or offensive;
  - (f) if the question response requires the disclosure of confidential or exempt information (as described in the Access to Information Rules);
  - (g) if the Council has resolved the issue raised and the question has been brought to a close.
- A1.30 If any question is disallowed the Chief Executive will write to the questioner explaining the reasons for the decision.
- A1.31 The Chief Executive will, if necessary, put questions into an appropriate form without affecting the substance, and will identify the appropriate Cabinet Member to respond to each question.
- A1.32 Copies of all questions to be submitted to the Council will be printed in the order in which they are received.

### **Procedure for Dealing with Public Questions**

- A1.33 The Mayor will announce that public questions will be taken. The Chief Executive or the Mayor will announce the question number, the name of the person who gave notice of the question and the name of the Cabinet Member (or other Councillor) who is to answer the question. The questions received shall be set out in a note which shall be laid round the Chamber at the Council meeting. The Mayor will then announce that the person who submitted the question may ask one supplementary question for clarification purposes only. If the person is not present or is not represented, the question will not be put and will be answered in writing.
- A1.34 If there is insufficient time to reply to all questions of which notice has been given, the Chief Executive will deal in writing with those not dealt with at the meeting.
- A1.35 If there are insufficient questions to fill the time allocated then Council business will proceed.
- A1.36 A record of all questions by members of the public of which notice had been given and the replies, including questions answered in writing, will be appended to the Minutes of the meeting concerned and circulated to all Members of the Council.

### **Other Provision for Public Involvement**

- A1.37 At the discretion of the Mayor, members of the public present at a meeting may address the Council on any agenda item. In exercising that discretion the Mayor will have regard to the efficient conduct of business at the meeting, and may give priority to members of the public who have given notice in advance of the meeting. The application to address the Council will not be accepted if they fall into one of the following categories:-
- (a) if a request in the same substance has been put by the same individual organisation in the previous three months, unless there has been a change in Council policy in that time:
  - (b) If a request is on a personal basis:
  - (c) If the request is not from a resident or local taxpayer of the Borough, or a business based in the Borough.

- (d) If the request is from a Council employee or former employee and the question arises from their current or previous employment or work;
- (e) if the request is defamatory, frivolous or offensive;
- (f) if the response to the request requires the disclosure of confidential or exempt information (as described in the Access to Information Rules).

### **Members' Questions**

A1.38 At ordinary meetings there will be provision for written and oral questions by councillors to Cabinet Members or Committee Chairs.

### **Written Questions**

A1.39 Notice of written questions must be received by the Chief Executive:

- a in the case of agenda items, no later than noon three working days before the meeting;
- b in the case of all other items, no later than noon five working days before the meeting.

The questions received shall be set out in a note which shall be laid round the Chamber at the council meeting. The note shall also set out the reply of the relevant Cabinet Member or Committee Chair to each written question. The note shall comprise two parts:

- a. Written questions and replies which relate to matters not specifically on the agenda for that meeting of the council.
- b. Written questions and replies relating directly to items on the agenda for that council meeting.

A1.40 At the council meeting, the Mayor shall ask the council to receive the note of written question and replies. The Mayor shall allow supplementary questions to be asked relating directly to the original written question or the answer given. Only one supplementary may be asked for each written question, and priority shall be given to the councillor who submitted the written question concerned.

- A1.41 A record of the written questions and replies, and a summary of the supplementary questions and replies, shall be included in the minutes of the meeting.
- A1.42 Supplementary questions to written questions which relate to specific items on the agenda shall be taken when the item concerned is reached, prior to that item being debated.

### **Oral Questions**

- A1.43 At the council meeting, a maximum of 10 minutes will be allowed for members' oral questions to members of the Cabinet; the Leader to respond or identify a relevant Cabinet Member to respond on each individual question.
- A1.44 After the expiration of 10 minutes, the council shall move on to next business. If there are no members wishing to ask questions prior to the expiration of 10 minutes, the council shall move on to next business at that stage.
- A1.45 A summary of the oral questions taken at the meeting and the replies shall be included in the Minutes.

### **Matters for Early Debate**

- A1.46 Each political party may select one item of business on an agenda for consideration during the 'Matters for Early Debate' item on the Council agenda. The order in which early debate items are taken will be determined by each Party in rotation choosing the 1st, 2nd and 3rd items, unless a different order is agreed between the whips of the parties concerned.
- A1.47 The approval of the budget and determination of the level of Council Tax will be an additional item for early debate - and taken first - at the relevant Council meeting each year - unless a special Council meeting is called for the purpose.

### **Reports of the Cabinet or of Individual Cabinet Members**

A1.48 The Leader or the Cabinet, or individual Cabinet Members may submit to Council, for consideration, proposals in relation to the Council's budget or policy framework.

A1.49 The Leader or other Cabinet Member will move either:

- (a) the recommendation(s) in the report; or
- (b) the recommendation(s) in the report with specified amendment(s); or
- (c) alternative recommendations to those set out in the report; or
- (d) in the case of First Reading reports submitted under paragraph A1.51, that the report be received.

A seconder is not required.

A1.50 The Leader or the Cabinet may report for information to Council on key decisions or other issues of interest. During consideration of such a report a Member may move that the report, or a specific item within the report, be referred back to the Cabinet for further consideration. No other motions will be permitted on decisions or action taken by the Cabinet on matters within its powers as set out in the Council's constitution.

#### **Reports of the Overview and Scrutiny Committee or Scrutiny Panels**

A1.51 At ordinary meetings (or at special meetings called for that purpose), the Council will consider any reports submitted to it from the Overview and Scrutiny Committee or a Scrutiny Panel. The Chair of the Overview and Scrutiny Committee may determine the order in which such reports appear.

A1.52 Each Overview and Scrutiny Committee or Panel report may be introduced by the Chair of the Overview and Scrutiny Committee or by the Chair of the Scrutiny Panel or other appropriate member.

A1.53 The Chair of the Overview and Scrutiny Committee or Scrutiny Panel will move either:

- (a) the recommendation(s) in the report; or
- (b) the recommendation(s) in the report with specified amendments; or

(c) alternative recommendations to those set out in the report.

A seconder is not required.

### **Reports of other Member-Level bodies**

- A1.54 At ordinary meetings (or at special meetings called for that purpose), the Council will consider any reports submitted to it from the Standards Committee or from other Member-level bodies as specified within their Terms of Reference. The Chief Executive will determine the order in which such reports appear on the agenda.
- A1.55 The Mayor will, in turn, call the agenda item of each report, whereupon the Chair of the body concerned or other appropriate Member will move that the report be received and, if appropriate, that recommendation(s) contained in the report be agreed. A seconder is not required. The mover of the report may speak to introduce the report.

### **Reports of Officers**

- A1.56 At ordinary meetings (or at special meetings called for that purpose), the Council may consider reports from officers on matters within its powers and responsibilities. The Chief Executive will determine the order in which officers' reports appear on the agenda.
- A1.57 The Mayor will move the recommendation(s) in the report. A seconder is not required.

### **Motions of which Notice has been given**

- A1.58 Except as otherwise provided in these procedures, notice of every motion must be in writing, signed by at least two Members of the Council, and delivered to the Chief Executive not later than noon six working days before the Council meeting. The Chief Executive will date and number notices in the order in which they are received. No Member may put their name to more than two motions on the same agenda.
- A1.59 Every motion must be relevant to some matter for which the Council has a responsibility, or which affects the Borough or its inhabitants. No motion to rescind any resolution passed within the preceding six



months, and no motion to the same effect as one rejected within the preceding six months, will be accepted. It will be open to the Mayor, advised by the Chief Executive, to determine that a motion is out of order, whereupon the Member giving notice of such motion will be so informed by the Chief Executive and the motion excluded from the agenda for the meeting.

- A1.60 The Chief Executive will set out in the agenda for ordinary or special meetings of the Council all motions accepted for the agenda in the order in which they have been received (unless the Member giving such a notice intimated in writing, when giving it, that he/she proposed to move it at some later meeting, or has since withdrawn it in writing). Where a motion could have financial, legal or significant other implications for the Council, the Chief Executive will draw these to the attention of the Council.
- A1.61 The Mayor will, in turn, call the agenda item of each motion, whereupon the motion will be moved, seconded and may be debated. The mover of a motion will have the right to speak last in any debate, and will have a right of reply to close debate on any amendment that has been moved and seconded to the motion.
- A1.62 If the motion set out in the agenda is not moved or seconded either by the Member who gave notice or some other Member, it will be treated as withdrawn.
- A1.63 The Council may with the consent of the mover resolve that any motion of which notice has been duly given may, upon being moved and seconded, be referred to the Cabinet for consideration and that a report be submitted to the Council within three ordinary meetings.

#### **Motions without Notice**

- A1.64 The following motions may be moved without notice having been given under paragraph A1.58:
- (a) to appoint a chair of the meeting, if the Mayor is not present
  - (b) in relation to the accuracy of the Minutes
  - (c) to change the order of business on the agenda
  - (d) to refer a matter to an appropriate body or individual
  - (e) to appoint a committee or member arising from a matter on the agenda

- (f) to receive reports or to move recommendations on the reports on the agenda, where the recommendations have been moved by the relevant Cabinet Member, Committee Chair, or other Member in accordance with paragraphs A1.49, A1.53, A1.55 and A1.58
- (g) to propose a motion on a matter contained in a report being considered at the meeting in accordance with paragraph A1.67
- (h) to withdraw a motion
- (i) to amend a motion
- (j) to proceed to the next business
- (k) that the question be now put
- (l) to adjourn a debate
- (m) to adjourn a meeting
- (n) to suspend a particular paragraph in these Procedures
- (o) to exclude the Press and public in accordance with the Access to Information Procedures
- (p) to not hear further a member named under paragraph A1.91, or to exclude them from the meeting under paragraph A1.92
- (q) to give the consent of the Council where its consent is required by this Constitution.

### **Rules of Debate**

- A1.65 Except as otherwise provided in these Procedures, a motion or amendment to a motion may not be discussed unless it has been proposed and seconded. If he/she declares his/her intention to do so, the seconder may reserve his/her right to speak later in the debate. The Mayor may require a motion or amendment to be put in writing.
- A1.66 Subject to any specific requirements of these Procedures, Councillors have the right to speak on items and may:-
- (a) propose an amendment to the recommendation(s), or motion before the Council;
  - (b) move that the matter or a specific aspect be referred back to the relevant Member-level body or Chief Officer; or
  - (c) propose a motion on a matter contained in the report.
- A seconder is required in the case of (a), (b) or (c).
- A1.67 A Member wishing to speak on a matter should indicate to the Mayor and wait to be called. A Member when speaking shall address the

Mayor. A Member must direct his/her speech to the question under discussion.

A1.68 While a Member is speaking the other Members must remain seated, unless rising to make a point of order or in personal explanation as follows:-

- (a) A Member may rise on a point of order and will be entitled to be heard forthwith. A point of order must relate only to an alleged breach of these Procedures or of a statutory provision, and the Member must specify the Procedure or statutory provision and the way in which he/she considers it has been broken.
- (b) A Member rising in personal explanation will be heard as soon as the Member who is speaking is finished, unless the Member speaking is prepared to yield. A personal explanation must be confined to some material part of a former speech by him/her which may appear to have been misunderstood in the present debate.

A1.69 The ruling of the Mayor on a point of order or on the admissibility of a personal explanation is final and not open to discussion.

A1.70 Whenever the Mayor rises during a debate, any Member then standing must resume his/her seat and the Council will be silent.

A1.71 No Member other than the Leader of the Council (or in his/her absence the Deputy Leader of the Council) and the Leader of the Opposition may speak for more than five minutes in any debate unless prior notice has been given in writing to the Chief Executive by 10.00 a.m. on the day of the meeting and the consent of the Council (to be ascertained without debate) has been given by a show of hands. Any consent so given will operate in each case for a maximum of five minutes only. The exemption allowing the Leader of the Council and the Leader of the Opposition to speak for more than five minutes does not apply in respect of Adjournment Motions moved under paragraph A1.83. The five minute rule does not apply at Annual Meetings of the Council in respect of the election of Mayor or of the Deputy Mayor, including speeches made by the retiring office-holders.

A1.72 A Member who has spoken on any motion may not speak again whilst it is the subject of debate, except:-

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

However, the Mayor has discretion to waive this restriction, if he/she considers it appropriate, to allow the Leader of the Council (or other relevant Cabinet Member), Leader of the Opposition or Leader of the second Opposition Party to speak more than once in a debate.

- A1.73 No Member may move more than one amendment to any motion. Notice of the amendment is not required.
- A1.74 An amendment must be relevant to the motion and must be either: -
- (a) to refer a subject of debate to the Cabinet or other Member-level body concerned for consideration or re-consideration;
  - (b) to leave out words and/or figures;
  - (c) to leave out words and/or figures and insert or add others;
  - (d) to insert or add words and/or figures.
- A1.75 Only one amendment may be moved and discussed at a time and no further amendment may be moved until the amendment under discussion has been disposed of.
- A1.76 (a) If an amendment is lost, other amendments may be moved on the original motion.
- (b) If an amendment is carried, the motion as amended will become the substantive motion, upon which any further amendment may be moved. The mover of the agreed amendment will take over the right to exercise a right of reply to close the debate on any further amendment or on the substantive motion.
- A1.77 A Member may with the consent of the Council, signified without discussion: -

- (a) alter a motion of which he/she has given notice, or
- (b) with the further consent of his/her seconder alter a motion which he/she has moved;

if (in either case) the alteration is one which could be made as an amendment.

A1.78 The mover of a motion or amendment may withdraw it with the consent of his/her seconder and of the Council, which will be signified without discussion. No Member may speak upon it after the mover has asked permission for its withdrawal, unless permission has been refused.

- A1.79
- (a) Prior to a vote being taken on an amendment, the mover of the substantive motion shall have a right of reply to close a debate on the amendment.
  - (b) Following a vote on an amendment, unless any Member indicates to the Mayor that he/she wishes to move a further amendment, the Mayor will move directly on to the vote on the substantive motion.

### **Interruptive Motions**

A1.80 A Member may move at the end of another Member's speech: -

- (a) that the question be now put, or
- (b) in the case of matters presented for information or discussion, that the Council proceeds to the next business.

A1.81 On a motion to proceed to next business the Mayor, unless he/she is of the opinion that the matter before the meeting has been insufficiently discussed, will put to the vote the motion to proceed to next business.

A1.82 On a motion that the question be now put the Mayor, unless he/she is of the opinion that the matter before the meeting has been insufficiently discussed, will put to the vote the motion that the question be now put. If it is passed then the appropriate Member will be given his/her right of reply before the matter being discussed is put to the vote.

### **Adjournment Motions**

- A1.83 A Member may move “that the Council do adjourn”. The motion must be seconded, but the seconder may not speak beyond formally seconding. The mover, and a speaker replying on the invitation of the Mayor, may each speak for five minutes only unless extended with the consent of the Council. This includes the Leader of the Council, and the Leader of the Opposition. The question will then be put. A second motion to adjourn under this paragraph may not be moved within a period of 20 minutes. A Member may not move or second such motions more than once a meeting.
- A1.84 Where business stands adjourned as provided in these Procedures, it will be carried forward to the next ordinary meeting of the Council unless otherwise determined by the Mayor.

### **Confidential Matters**

- A1.85 A motion to exclude the public from the meeting may be moved during or prior to an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that otherwise there would be disclosure of exempt information as defined in Schedule 12A to the Local Government Act 1972.
- A1.86 The motion must specify the item of business concerned and the grounds for the exclusion of the public in terms of the criteria in that Schedule.

### **Voting**

- A1.87(a) Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put. The method of voting at meetings of the Council is by show of hands, provided that voting is confirmed by roll-call if demanded by any member immediately after a vote by show of hands is taken, and supported by four other members, who shall all rise in their places, calling for division. Before confirming the voting by roll-call a bell will be rung for two minutes, following which the doors to the chamber will be closed and no member will be admitted until the roll-call has been completed. For this purpose, the Chief Executive will call the names of all members and every member

present will answer “for” or “against” or “not voting”. How each member present voted in a division (including those present but not voting) will be recorded in the Minutes.

- A1.87(b) Immediately after the vote is taken on the Authority’s budget, including the calculation for the Council Tax or issuing the precept a recorded vote will be held. Before confirming the voting by roll-call a bell will be rung for two minutes, following which the doors to the chamber will be closed and no member will be admitted until the roll-call has been completed. For this purpose, the Chief Executive will call the names of all members and every member present will answer “for” or “against” or “not voting”. How each member present voted in a division (including those present but not voting) will be recorded in the Minutes.
- A1.88 A member may have recorded in the minutes in relation to any motion that is carried without a division, by notifying his/her wish to that effect before the next business is commenced:-
- (a) his/her dissent from the decision;
  - (b) his/her abstention on the matter (or that he/she is reserving his/her position); or
  - (c) whether he/she cast his/her vote for or against the motion.
- A1.89 If there are equal numbers of votes for and against, the Mayor will have a second or casting vote, regardless of whether he/she has used his/her first vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.
- A1.90 Where there are more than two persons nominated to fill any position, including a casual vacancy on a Member-level body or an appointment to any other body, and of the votes given there is not an overall majority in favour of one person, the name of the person (or persons) having the least number of votes will be deleted from the list and a fresh vote taken, and so on until a majority of votes is given in favour of one person. Where there are several vacancies and more persons nominated than vacancies exist, the procedure will be similar, except that voting will cease when the number of names has been reduced to the number of vacancies to be filled. In cases of this nature, each Member will have the same number of votes as there are vacancies.

### **Disorderly Conduct**

- A1.91 If at a meeting any Member, in the opinion of the Mayor, misconducts himself/herself by persistently disregarding the ruling of the Chair or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, the Mayor or any other Member may move "That the Member [named] be not further heard". If seconded, the motion will be put and determined without discussion.
- A1.92 If the Member named continues his/her misconduct after a motion under paragraph A1.91 has been carried the Mayor may move "That the Member [named] do leave the meeting" (in which case the motion will be put and determined without seconding or discussion).

### **Disturbance by the Public**

- A1.93 At any meeting of the Council, the Mayor has power to order the removal of any member of the public interrupting the proceedings or otherwise misbehaving or conducting himself/herself in a manner prejudicial to the proper and orderly conduct of the meeting. In case of general disturbance by members of the public, the Mayor may order all or part of the public seating area to be cleared.

### **Short Adjournments**

- A1.94 The Mayor may at any time, if he/she thinks it desirable, adjourn a meeting for a time to be specified by him/her, or for as long as he/she considers necessary.

### **Length of meeting**

- A1.95 When the meeting has sat for three and a half hours (excluding adjournments), the Mayor will invite Members to extend the meeting by a further 30 minutes on a show of hands without discussion. Unless the meeting is extended, the Mayor will announce that the meeting is closed. Subsequent additional extensions may be agreed in the same manner.
- A1.96 Prior to the meeting being closed in accordance with paragraph A1.95, the Mayor will call the headings of the items of business remaining outstanding, whereupon Members will indicate, without debate, whether they agree or object to the recommendation(s) within that item. Items agreed without any Member objecting will be approved.



Any objection to an item will result in that item, at the discretion of the Mayor, either being put to the vote without debate or being deferred if the advice of the Chief Executive is that the matter cannot safely be determined without proper deliberation. Any Member so wishing has the right to record dissent on any individual item.

### **Attendance of Members**

- A1.97 Every Member attending a meeting of the Council, or of any Member-level body of which he/she is a Member, must sign his/her name in the attendance book or sheet provided for that purpose which will be prima facie evidence of his/her attendance.

### **Suspension and Amendment of Council Procedures**

- A1.98 All of these Council Procedures may be suspended by motion, either with or without notice having been given, if at least one half of the whole number of Members of the Council are present (providing that the result of suspension will not be to contravene a statutory provision). Suspension may only be for the duration of the meeting.
- A1.99 Any motion moved without notice under paragraph A1.59 which would add to, vary or revoke these Council Procedures will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **SECTION 2 – COMMITTEES AND SUB-COMMITTEES**

### **Application of Council Rules of Procedure**

- A2.1 All of the Council Procedures apply to meetings of full Council. None of the Council Procedures apply to meetings of the Cabinet which has its own Procedures. Only Council Procedures A1.12, A1.13, A1.37, A1.91, A1.92 and A1.93 apply to meetings of Committees and Sub-Committees, with the substitution of the word 'Chair' for 'Mayor'.

### **Appointment of Committees**

- A2.2 The Council will, at its Annual Meeting, establish Committees as required or permitted under the Articles in Part 2 of the Constitution.

- A2.3 In establishing Committees, the Council will determine their functions, the number of seats on each, and the allocation of seats to each political group, in accordance with the political balance requirements of the Local Government and Housing Act, 1989 and the Local Government (Committees and Political Groups) Regulations 1990. The Council will give effect to the wishes of each political group as to who is to be appointed to the seats which are allocated to that group. The Council will also determine whether deputies should be appointed to a named committee and appoint members accordingly.
- A2.4 The Council may not appoint any member of a Committee to hold office later than the next Annual Meeting of the Council.
- A2.5 The Council may at any time alter the appointments to a Committee, provided that it acts in accordance with the wishes of each political group in determining whether and when to terminate appointments made in accordance with the wishes of that political group.
- A2.6 The Council, when establishing a Committee, will appoint its Chair and Vice-Chair. A Member who chairs a body which carries out executive, overview and scrutiny or regulatory functions may not at the same time chair another such body which carries out different functions nor will a Member be permitted to chair more than one Best Value Review Team or Scrutiny Panel. In the event of a vacancy arising in the office of Chair or Vice-Chair of a Member-level body, the General Purposes Committee will fill the vacancy as soon as practicable. If both the Chair and Vice-Chair are absent from a meeting, the relevant body shall elect a person to chair the meeting for the time being.
- A2.7 The Mayor may be appointed as an ex-officio member on Committees appointed by the Council, in which case the Deputy Mayor may be designated to attend meetings, with voting rights, as a substitute in the Mayor's absence. Similarly, the Chairs of Committees may be appointed as ex-officio members of the Sub-Committees or Area Committees appointed by their Committees. The Leader of the Council may also be appointed as an ex-officio member of Committees appointed by the Council. Ex-officio appointments count as part of a political group's allocation of seats.

### **Appointment of Sub-Committees**

- A2.8 Apart from the Scrutiny and Overview Committee and the Standards Committee, no Committee may establish Sub-Committees except with the agreement of the Council.
- A2.9 Paragraphs A2.3, A2.4 and A2.5, with appropriate amendment, apply to the establishment of Sub-Committees.
- A2.10 The Chair and Vice-Chair of a Sub-Committee may be appointed by the Member-level body establishing the Sub-Committee.

### **Programme of Meetings**

- A2.11 The Council at its Annual Meeting will determine the programme of regular meetings of standing Member-level bodies for the ensuing year, except that in cases of urgency a Chair may, at his/her discretion, vary the date and time or cancel it due to lack of business or other special circumstances.

### **Special Meetings**

- A2.12 Special meetings of Member-level bodies may only be called by the Chief Executive, acting in consultation with the relevant Chair.

### **Quorum of Member-level Bodies**

- A2.13 Except where authorised by statute, otherwise indicated in these Procedures or ordered by the Council, the quorum of any Member-level body is one-third of the number, rounded up to the nearest whole number, of Councillors appointed as members of that body, excluding vacancies, but in no case less than three. Ex officio Members are not included for the purposes of calculating the size of a quorum, but are counted as part of a quorum if present at the meeting. Non-voting co-optees are not included for the purposes of calculating the size of a quorum, nor are they counted as part of a quorum if present at the meeting.
- A2.14 If a quorum for a meeting is not present, either:
- (a) the meeting may be abandoned, in which case the Chief Executive will arrange a new date and time after consultation with the Chair, or

- (b) in appropriate circumstances, those present whilst the meeting is inquorate may informally consider the business on the agenda, and notes may be taken, but no formal decisions on the business may be made.

### **Resignations and Vacancies**

- A2.15 A Member wishing to resign from a Member-level body must give notice to that effect in writing to the Chief Executive, who will report on the matter to the next appropriate meeting of the Council or, in the case of a Sub-Committee, the body that appointed to the Sub-Committee. The Council or the appointing body, as the case may be, may consider altering the membership of the Member-level body or Sub-Committee concerned, providing that it continues to comply with the political balance rules.

### **Voting at Meetings of Member-level Bodies**

- A2.16 Voting at meetings of Member-level bodies is by show of hands and the result will be declared at the meeting. In the case of an equality of votes, the Chair of the meeting has a second or casting vote. A Member may have his/her vote recorded to any motion, whether that person cast his/her vote for the motion or against the motion or whether he/she abstained from voting.

### **Minutes of Meetings of Member-level Bodies**

- A2.17 The minutes of every meeting of a Member-level body will be recorded and presented to a subsequent meeting of that body for confirmation.
- A2.18 No motion or discussion may take place upon the minutes except as to their accuracy, and any question on this point will be determined by a majority of the members of the body attending who were present when the matter in question was decided. Once confirmed, with or without amendment, the person presiding will sign the minutes.

### **Attendance of Members**

- A2.19 A Member of the Council has the right to attend meetings of Committees and Sub-Committees of which he/she is not a Member (except for appeals panels, review boards or similar bodies) but may only speak with the permission of the Chair and does not have the right to vote. A Member attending such a meeting must record his/her attendance in the attendance book by writing after his/her name the words 'Standing Orders'.

### **Overview and Scrutiny Committee**

- A2.20 No member of the Scrutiny and Overview Committee may also be a member of the Cabinet.

### **General Purposes Committee**

- A2.21 The quorum for meetings of the General Purposes Committee shall be 2.
- A2.22 Political groups represented on the Council which have not been allocated a seat on the General Purposes Committee may appoint a nominated member who may attend meetings and speak (but not vote) on matters on the agenda.

### **Pension Fund Investment and Administration Panel**

- A2.24 The quorum for meetings of the Pension Fund Investment and Administration Panel shall be 2.

## **SECTION 3 - STATE OF THE BOROUGH DEBATE**

### **Calling of the debate**

- A3.1 The Leader will call a state of the Borough of Greenwich debate annually on a date and in a form to be agreed with the Mayor.

### **Form of the Debate**

- A3.2 The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include

holding workshops and other events prior to or during the state of the Borough debate.

### **Chairing the Debate**

A3.3 The debate will be chaired by the Mayor.

### **Outcome of the Debate**

A3.4 The outcome of the debate will be:

- (a) Disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (b) Considered by the Cabinet as appropriate when making proposals to the Council in respect of any matter which forms part of the Council's budget and policy framework.

## B Overview and Scrutiny Procedures

### B1 **General arrangements**

(a) The Council will appoint an Overview and Scrutiny Committee and Standing Scrutiny Panels, which between them will discharge the functions conferred by Section 9F Local Government Act 2000, by Section 19 of the Police and Justice Act 2006, and by virtue of regulations made under section 244(2ZE) of the National Health Service Act 2006 (local authority scrutiny of health matters).

#### *Overview and Scrutiny Committee – terms of reference*

- (b) The terms of reference of Overview and Scrutiny Committee are:
- (i) To co-ordinate and oversee all overview and scrutiny functions on behalf of the Council.
  - (ii) To monitor and keep under review the Forward Plan of key decisions and forthcoming Cabinet business to be prepared and updated monthly under the Access to Information Procedures in Part 4D of this Constitution.
  - (iii) To recommend to Council each year an annual work programme of overview and scrutiny activities. This may include the scrutiny or review of services or activities of other organisations which are relevant to the social, environmental or economic well being of the Borough or its residents.
  - (iv) To undertake scrutiny functions in respect of overarching issues which affect a number of service and subject areas, or which may be allocated specifically to the Committee by the Council, or which do not fall within the service or subject areas of any Scrutiny Panel.

- (v) In appropriate cases where matters fall within the remit of more than one Scrutiny Panel, to determine which panel will assume responsibility for any particular issue.
  - (vi) To monitor action on matters referred from Overview and Scrutiny Committee to the Cabinet, either by way of report or for reconsideration, to ensure that they are managed efficiently and in accordance with the Council's Constitution and Overview and Scrutiny Procedures.
  - (vii) To consider, or where practicable to allocate to the appropriate Scrutiny Panel or Panels for consideration, First Reading reports in relation to the Council's Budget and Policy Framework and to report to the Chief Executive with recommendations to Cabinet.
- (c) Overview and Scrutiny Committee will appoint a Call-in Sub-Committee comprising 3 Members: the Chair and Vice-Chair of Overview and Scrutiny Committee and an Opposition Member. Each of the 3 Members may have named deputies who may attend and vote as a substitute in the event of the absence of the appointed Member. A Member who has signed the notice, in line with Procedure Rule B9, calling in an executive decision can not sit on the Call In Sub-Committee which considers the matter. Call-in Sub-Committee will exercise on behalf of Overview and Scrutiny Committee the powers to review or scrutinise Executive decisions that have been called-in in accordance with the procedures in paragraph 9 of these Procedures.

#### *Scrutiny Panels – Terms of Reference*

- (d) The terms of reference of Scrutiny Panels are:



- (i) To review and monitor the services provided in relation to a specified service or subject area.
  - (ii) To monitor the budget management and general performance of Council services within the Panel's remit.
  - (i) To review and/or scrutinise the outcome of decisions made or actions taken by or on behalf of the Cabinet (including action taken under delegated powers) in relation to functions within the Panel's remit.
  - (iv) To scrutinise the work of partnership bodies including the delivery of Local Area Agreement targets.
  - (v) To make reports and/or recommendations in connection with any of the matters within its terms of reference.
- (e) The Healthier Communities and Adult Social Care Scrutiny Panel is responsible for the review and/or scrutiny of matters relating to the health service in the borough.
- (f) The Community Safety and Environment Scrutiny Panel, together with the Overview and Scrutiny committee, is responsible for the review and/or scrutiny of decisions made, or other action taken, in connection with the discharge by the Council or of the relevant Chief Police of their crime and disorder functions. When the Panel makes a report and/or recommendation it will at the same time provide a copy to the relevant Chief Officer of Police, Police Authority, Probation Committee and Health Authority.

## **B2 Membership of Overview and Scrutiny Committee and Scrutiny Panels**

- (a) Members of the Cabinet may not be appointed to serve on the Overview and Scrutiny Committee, nor any Scrutiny Panel. No councillor may be involved in scrutinising a decision in which he/she has been directly involved.
- (b) The membership of Overview and Scrutiny Committee will be the Chair and Vice Chair of Overview and Scrutiny Committee, the chairs of all standing Scrutiny Panels and opposition councillors appointed in accordance with the principles of political balance. In addition, when considering education

matters, Overview and Scrutiny Committee will include in its membership the following voting representatives:

- 1 Church of England diocese representative;
- 1 Roman Catholic diocese representative; and
- 2 parent governor representatives.

(c) The Council will appoint the members of standing and ad hoc Scrutiny Panels in accordance with the principles of political balance. The members of Scrutiny Panels may include non-voting co-optees.

(d) The Scrutiny Panel dealing with education matters will include in its membership the following voting representatives:

- 1 Church of England diocese representative;
- 1 Roman Catholic diocese representative; and
- 2 parent governor representatives.

(e) The Council will appoint the Chair and Vice-chair of Overview and Scrutiny Committee, and the Chairs and Vice-chairs of Scrutiny Panels.

### **B3 Meetings of Overview and Scrutiny Committee and Scrutiny Panels**

(a) The Council and Committee Procedures in Part 4A of this Constitution apply as appropriate to meetings of Overview and Scrutiny Committee and Scrutiny Panels, including those relating to:

- approval by Council of an annual programme of ordinary meetings
- arrangements for calling additional meetings
- the quorum for meetings
- agendas and minutes
- chairing meetings and the conduct of proceedings
- the appointment of sub-committees
- resignations and vacancies

- arrangements for public access to information and public participation in meetings.
- (b) Any member of the Council may give written notice to the Chief Executive requesting a Councillor Call for Action as defined in the Council's procedures and legislation which is relevant to the functions of the Committee to be included on the agenda. On receipt, the Chief Executive will review the request, and subject to it complying with the agreed criteria (that the pro-forma has been completed, that mechanisms for resolution have been tried and that the submission does not fall within any exemptions and exclusions), ensure that the matter is included on the next available agenda.

#### **B4 Work programme and conduct of business**

- (a) The work programme of overview and scrutiny activities will be prepared on an annual basis and agreed by Council. The work programme may include time-limited reviews as requested by the Cabinet and may include the review and scrutiny of services or activities of other organisations which are relevant to the well being of the Borough or its residents.
- (b) Full Council or the Chief Executive (in consultation with the Chair of the Overview and Scrutiny Committee) may amend the work programme to include any specific issue or review requested by Cabinet or Council or as a Councillor Call for Action.
- (c) In considering whether or not to amend the work programme, regard may be had to any representations made by those requesting the amendment as to why it would be appropriate to do so, the resources available and the priorities of other matters in the work programme. If it is decided not to amend the work programme, notice must be given to those who requested the amendment of the decision and the reasons for it. If it is decided that the work programme shall be amended, a copy of any report or recommendations made to Cabinet or Council in relation to the matter shall be provided to those who requested the amendment.
- (d) The role of Overview and Scrutiny Committee and Scrutiny Panels in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedures in Part 4E of this Constitution.

(e) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, Overview and Scrutiny Committee and Scrutiny Panels may make proposals to the Cabinet in relation to matters within their terms of reference.

(f) Within the budget provision allocated by the Council to support overview and scrutiny functions, and in accordance with the approved work programme, Overview and Scrutiny Committee and Scrutiny Panels may hold enquiries and investigate the available options for future direction in policy development, and may appoint advisers and assessors to assist them in this process. They may undertake site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration.

#### **B5 Reports from Overview and Scrutiny Committee and Scrutiny Panels**

(a) Once it has completed its deliberations on a matter within its work programme, Overview and Scrutiny Committee or a Scrutiny Panel will prepare and submit a formal report to the Chief Executive. The Chief Executive will: -

- (i) if the proposals are consistent with the existing Budget and Policy Framework, submit the report to the Cabinet or appropriate Chief Officer for consideration, or;
- (ii) if the recommendation would require a departure from or a change to the Budget and Policy Framework, submit the report to the Cabinet and then subsequently to Council.

(b) The members of Overview and Scrutiny Committee or a Scrutiny Panel will try

to agree on a report and recommendations, which may include options or alternative courses of action. However, if the Members of the Committee or Panel cannot agree on one single final report, then one minority report may also be prepared and submitted to the Chief Executive for consideration with the majority report.

(c) A report of Overview and Scrutiny Committee or Scrutiny Panel should normally be considered within 2 months of being submitted to the Chief Executive.

(d) Where a Scrutiny Panel's recommendations fall to be determined by the Cabinet or by a Chief Officer (i.e. in respect of recommendations which can be implemented under powers delegated to officers), the decisions taken will be reported back to Overview and Scrutiny Committee or Scrutiny Panel. An appropriate Cabinet Member or the relevant Chief Officer, or representative, may be required to attend the meeting to present the response.

(e) Where a Scrutiny Panel's recommendations relate to Council functions and therefore fall to be considered by the Council, the report will normally be considered by the Cabinet within 2 months of its submission, and then subsequently by the Council together with the recommendations of the Cabinet.

## **B6 Rights of Overview and Scrutiny Committee members to documents**

(a) In addition to their rights as councillors, members of Overview and Scrutiny Committee and Scrutiny Panels have additional rights to documents and to notice

of meetings as set out in the Access to Information Procedures in Part 4D of this Constitution.

(b) Nothing in these Procedures prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee or Scrutiny Panel, depending on the matter under consideration.

## **B7 Councillors and Officers giving account**

(a) Overview and Scrutiny Committee or any Scrutiny Panel may scrutinise and review the discharge of any of the Council's functions or the exercise of its powers, including the effect of decisions made and actions taken. As well as reviewing documentation, it may require members of the Cabinet and/or senior officers to attend before it to provide information in relation to matters within their remit. It is the duty of those Members and Officers to attend if so required. It is not anticipated that Officers below third tier will be called to give evidence, except in exceptional circumstances when those Officers have specific technical knowledge or expertise. All requests for Officer attendance must be made through the appropriate Chief Officer or his/her nominated representative.

(b) Where the relevant Member or Officer is unable to attend on the required date, Overview and Scrutiny Committee or Scrutiny Panel may, in consultation with the Member or Officer concerned, arrange an alternative date for attendance.

## **B8 Attendance by others**

(a) Overview and Scrutiny Committee or a Scrutiny Panel may invite other people to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, members, and officers in other parts of the public sector, and may invite them to attend or arrange for their views to be obtained by other means (e.g. public meetings, surveys and questionnaires)

*Scrutiny of Health Services*

- (b) The specific statutory powers are to be exercised by the Healthier Communities and Adult Social Care Scrutiny Panel.

*Scrutiny of Crime and Disorder Functions*

- (c) the specific statutory powers are to be exercised by the Overview and Scrutiny Committee and the Community Safety and Environment Scrutiny Panel.

**B9 Call-in**

The “Call-in” procedure provides a means by which Members of the Council are able to request that executive decisions made but not yet implemented be reconsidered by the decision maker.

Statutory and sector guidance makes it clear that call-in should only be used in exceptional circumstances. It should not be used as a substitute for early involvement in the decision making process, or as a party political tool. Day to day management and operational decisions should not be subject to call-in.

Overuse or inappropriate use of the call-in mechanism dilutes its effectiveness and can impact upon the Council’s ability to function efficiently. Accordingly the Council has, in line with government guidance, incorporated appropriate safeguards.

(a) Except in cases of urgency (in which case see paragraph B10 of these Procedures), decisions within the following categories may be ‘called in’ under the procedures set out in this paragraph:

- (i) any decision taken by the Cabinet, Cabinet Committee or by any committee or sub-committee of the Cabinet authorised to take decisions on behalf of the Cabinet.
- (ii) any decision taken by the Leader or by individual Cabinet Members, should they have delegated powers.
- (iii) any key decision taken by officers under delegated powers.
- (iv) any key decision taken under joint arrangements with one or more other local authorities.

(b) When such a decision is taken, it will be published in accordance with the Access to Information Procedures in Part 4D of this Constitution. The person responsible for publishing the decision will send a record of the decision to

members of Overview and Scrutiny Committee and of the relevant Scrutiny Panel on the day of publication.

- (c) The record of the decision will bear the date on which it is published and will specify when it will come into force. Except in cases of urgency, a decision will be implemented on the 5<sup>th</sup> working day after publication, unless it is called-in.
- (d) Any decision which has not been classified as urgent under the procedure in paragraph B10 may be called in by any two non-executive councillors.
- (e) The Chair and lead Opposition Member of Overview and Scrutiny Committee may make their own personal administrative arrangements to facilitate consideration and processing of matters referred to them in respect of call-in (e.g. use of a standard form; a deadline for the matter to be brought to his/her attention; use of support staff to receive and advise on requests).



*Notice of call-in*

- (f) The notice of call-in must be received (by post, hand delivery, or fax) by 5.00 p.m. on the day prior to the 5<sup>th</sup> working day after publication. It must be received at the office, or by the officer, designated by the Chief Executive to receive such notices. The notice must specify:
- (i) the decision that is being called-in;
  - (ii) the identity of the decision maker(s);
  - (iii) the reasons for calling-in the decision; and
  - (iv) the alternative decision sought.

The ability to call-in a decision relates only to decisions taken but not yet implemented. Accordingly, a call-in notice can only be submitted once the decision to which it relates has been taken.

*Review procedure on receipt of a notice of call-in*

- (g) All notices of call-in shall be subject to review by the Monitoring Officer (in consultation with the Chair of the Overview and Scrutiny Committee), who shall as soon as is reasonably practicable determine whether the call-in is valid and should be referred to the Overview and Scrutiny Call in Sub-Committee for consideration.
- (h) The Monitoring Officer (in consultation with the Chair of the Overview and Scrutiny Committee) may reject a notice of call-in as invalid for one or more of the following reasons:
- (i) it has not been submitted by at least 2 non-executive members;
  - (ii) it is received after the deadline set out in paragraph B9(f) of these Procedure Rules;
  - (iii) it does not contain all of the information required in paragraph B(9)(f)(i) to (iv) of these Procedure Rules;
  - (iv) it concerns a decision taken in accordance with the urgency provisions set out in paragraph B10 of these Procedure Rules;
  - (v) it relates to a decision that has previously been called-in or has been the subject of pre-decision scrutiny;
  - (vi) it relates to a non-executive decision;
  - (vii) it concerns day to day management and/or operational decisions;

- (viii) it is potentially defamatory, vexatious, frivolous or offensive; or
  - (ix) it is in some other respect considered to be out of order, illegal, irregular or improper.
- 
- (i) Where a notice of call-in is rejected as invalid by the Monitoring Officer, they will as soon as is reasonably practicable provide those members who submitted the notice with written reasons for the rejection.
  - (j) For the avoidance of doubt, more than one notice of call-in can be submitted in relation to the same executive decision made but not yet implemented. Subject to the notices of call-in being accepted as valid, it will be normal procedure for them to be dealt with by the Overview and Scrutiny Call in Sub Committee as one item.

*Reference of Decisions called in for consideration by Overview and Scrutiny Call in Sub-Committee*

(k) A decision called-in for consideration by Overview and Scrutiny Call in Sub-Committee will normally be considered at its next meeting, and must be considered within 20 working days of the notice of call-in. The Chief Executive will notify the Leader and relevant Cabinet Members and Chief Officers of the date and time of the meeting, and they may attend and address the meeting on the matter. If appropriate, the Chief Executive and relevant Chief Officers will ensure that other parties are advised of the call-in and the arrangements for the decision to be considered. On considering the matter, Call in Sub-Committee may either:

- (i) note the decision taken and agree to take no further action, in which case the decision called-in will have immediate effect and will be implemented; or
- (ii) refer the decision to the decision-maker for reconsideration with comments, who must reconsider the decision within 20 working days of the referral. The final decision may be to confirm or amend the original decision, and this may not be subject to further call in.; or

- (iii) if the Sub-Committee considers that the decision is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, refer the decision with or without comments to Full Council.

*Decisions referred to Full Council*

- (l) A decision referred to Full Council in accordance with paragraph B9 (k)(iii) may be implemented immediately if:
  - (i) it is not practical to convene a quorate meeting of the full Council; and
  - (ii) the chair of Overview and Scrutiny Committee (or in his/her absence the Mayor or Deputy Mayor) agrees that the decision is urgent; and
  - (iii) the reasons why it is not practical to convene a quorate meeting of full Council, and the consent of the Chair of Overview and Scrutiny Committee, are noted on the record of the decision.
- (m) In all other cases, no further action may be taken in respect of the decision or its implementation until the Council has met and considered the matter. At the meeting it will receive a report of the decision and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
  - (i) endorse the decision as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council will be minuted and circulated to all Members in the normal way; or
  - (ii) amend the Budget or Policy Framework to encompass the decision and agree to the decision with immediate effect. In this case, no further action is required, save that the decision of the Council will be minuted and circulated to all Members in the normal way; or
  - (iii) where the Council accepts that the decision is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the Budget or Policy Framework to accommodate it, require the Cabinet to consider the matter in accordance with the advice of either the Monitoring Officer or the

## Chief Finance Officer.

**B10 Call-in and urgency**

(a) The call-in procedure in Paragraph B9 does not apply where the decision being taken is urgent. A decision is urgent if any delay likely to be caused by the call in process would prejudice the Council's or the public interest. The record of the decision, and the notice by which it is made public, shall state that, in the opinion of the person or body making the decision, the decision is urgent and not subject to call-in. The Chief Executive or his/her nominee must agree both that the decision proposed is reasonable and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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

**B11 The Party Whip**

(a) Members of Overview and Scrutiny Committee, Scrutiny Panels or any sub-committee of Overview and Scrutiny Committee are not bound by the party whip in respect of any matter while it is being considered by the Committee, Panel or sub-committee.

(b) For this purpose, 'party whip' means any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner.

**B12 Councillor Call for Action (CCfA)**

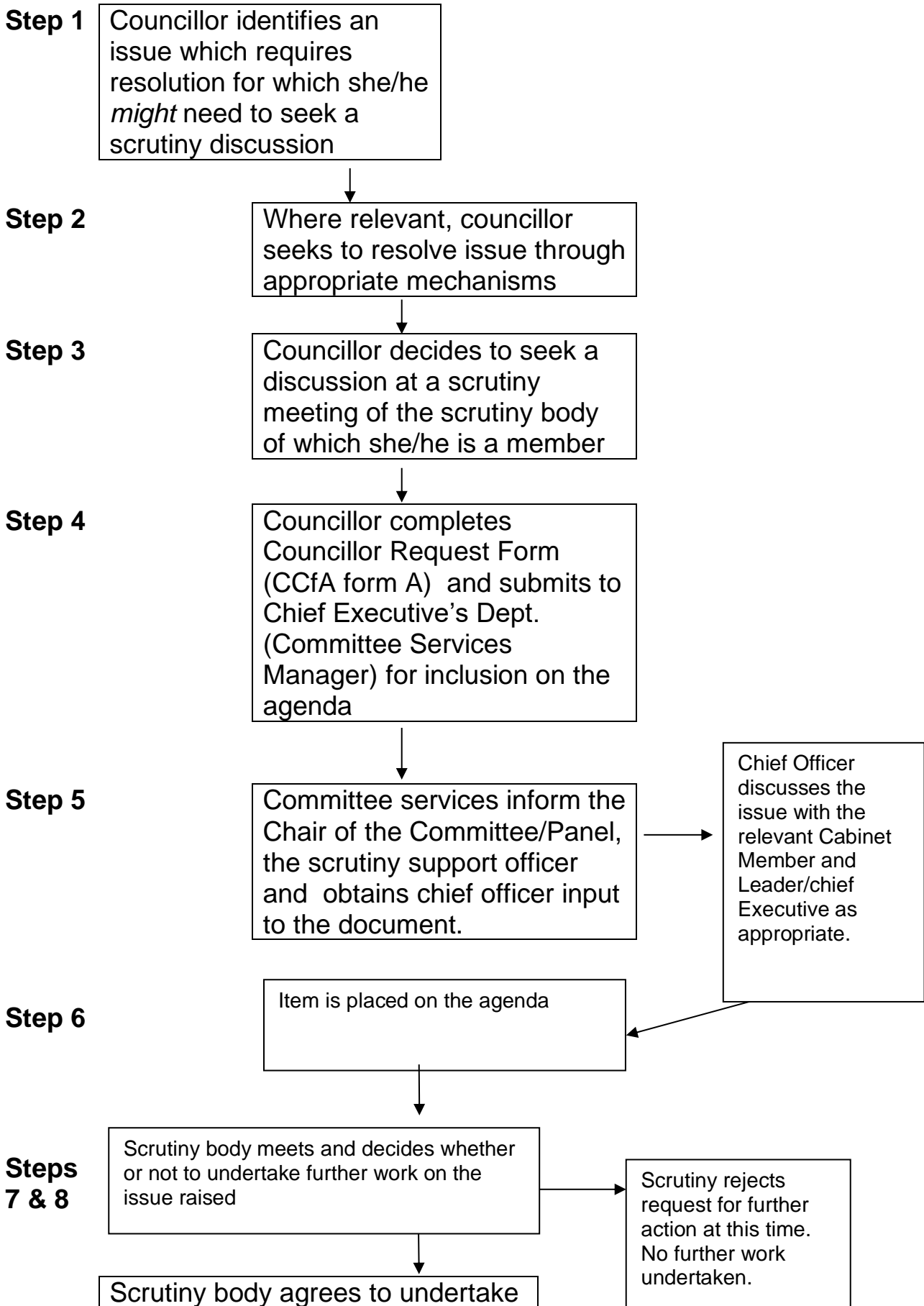
(a) That all Councillor Call for Action requests will be managed in line with the annexe to these Procedure Rules.

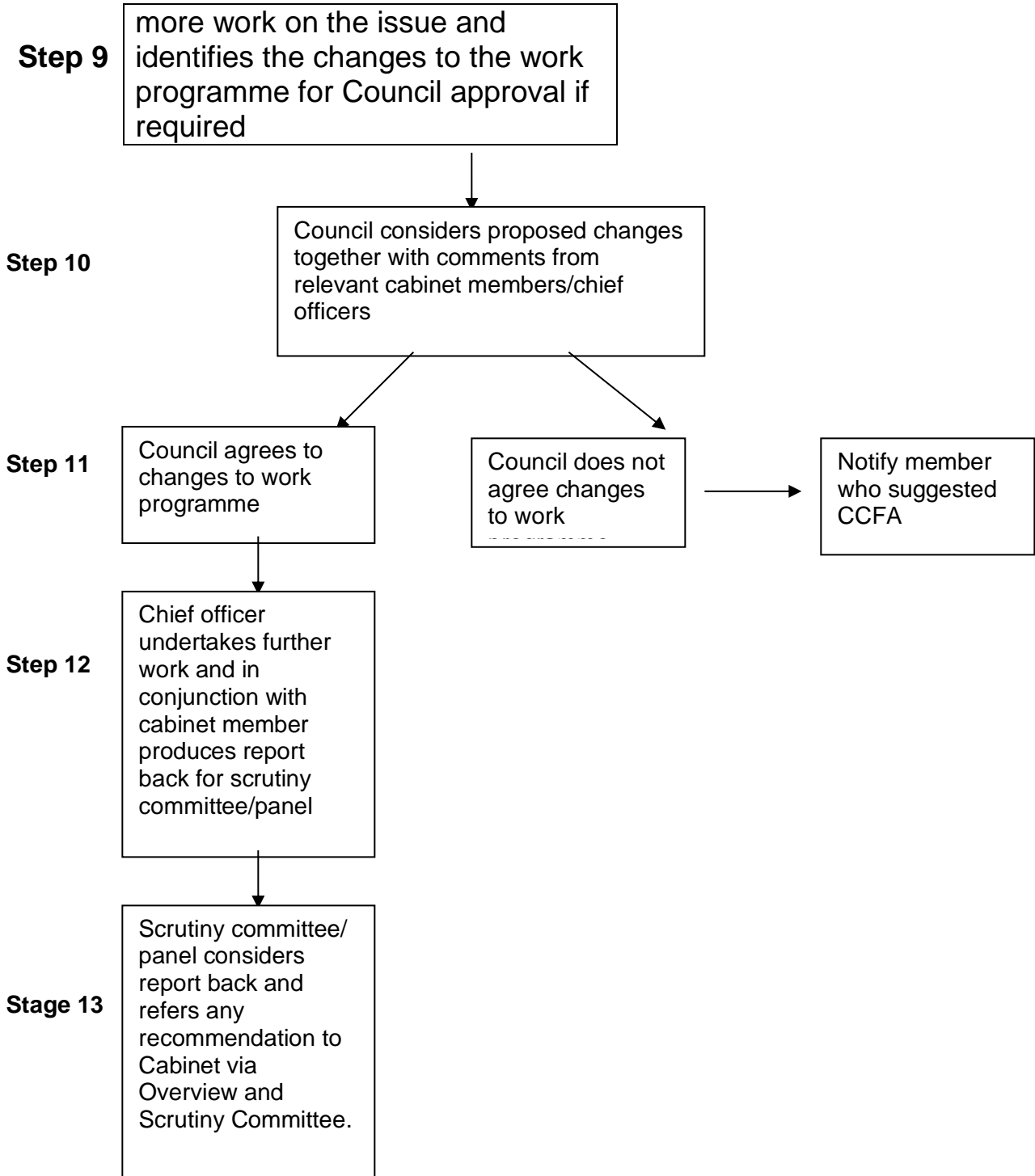
(b) That no more than two CCfA requests will be considered at each meeting; and that no Member may submit more than one per meeting (NB: where more than two requests are received preference will be given to any member who has not previously submitted one in that Municipal Year. Those CCfA requests submitted for a particular meeting which were not included on the agenda to the body in question, as they fell foul of the maximum of two CCfAs per meeting rule, will be held back until the next scheduled meeting).

- (c) The initial consideration of any CCfA will be on the basis of the written pro-forma, submitted by the Member, and the written response of the relevant Chief Officer and Cabinet Member.
- (d) At the meeting the submitting Member will present his/her CCfA and the relevant Chief Officer will be given an opportunity to respond. There will be no public involvement in the initial consideration of the CCfA.
- (e) Following the presentation by the submitting Member and the response of the Chief Officer/Cabinet Member and any questions from the Committee or Panel, Members will decide to either:
- Not review or make a report or recommendation concerning the matter.
  - Seek further information or clarification from the submitting Councillor, the relevant Cabinet Member or Chief Officer.
  - Propose to Council that the matter be reviewed as part of the Panel's work programme.

**Councillor Call for Action (Flowchart 1) - Councillor request for an agenda item (member)**

This process relates to requests for an item to be included on the agenda of a scrutiny body of which the requesting councillor is a member.





## Explanatory Note on Flowchart 1

The following expands on how the process set out in the flow chart would need to operate in practice:

Steps 1 and 2: guidance will be issued to councillors on the different mechanisms through which they might seek to resolve an issue. In order to ensure that CCfA does not become the mechanism of first resort, and overloads the scrutiny function, councillors will be *encouraged* to use other mechanisms before turning to a CCfA request.

Steps 4 and 5: on receipt of a CCfA request, the proposal will be examined to ensure that there is sufficient detail on the pro-forma document for the scrutiny body to assess the request for scrutiny work, and that the request has been received from a member of the scrutiny body at which the CCfA is aimed. If either of these tests fail, the pro-forma will be returned to the councillor submitting the request with an explanation of why it has been sent back at this stage.

If the CCfA request is fully completed and is from a member of the scrutiny body at which it is aimed, the relevant chief officer(s) and the Chief Executive will be informed of the CCfA. The chief officer(s)'s comments on the issue will be obtained [in consultation with the relevant cabinet member(s)] and included on the pro-forma. The CCfA will then be placed on the agenda of the scrutiny body's next available meeting.

A report will be prepared for each relevant scrutiny body (the Committee or its panels) for which CCfA requests have been received. This report, entitled 'Councillor Calls for Action' will set out the list of CCfAs which have been received for that scrutiny body and ask the scrutiny body to decide for each one whether or not it will undertake further work on the issue raised. For each CCfA, the original pro-forma, supplemented by the chief officer comments obtained, will be attached as an appendix to the report.

Step 6: the councillor proposing the CCfA will be given the opportunity to present her/his proposal at the scrutiny meeting. The length of time to present the proposal will be at the discretion of the Chair of the meeting but will not exceed five minutes. If there were to be a number of CCfA proposals appended to the CCfA report to the meeting, the Chair might need to limit the length of time allowed for the presentation to ensure the meeting is manageable.

The Chair may seek a response from the relevant Cabinet member(s) and/or chief officer(s). Following any presentation, the scrutiny body will take account of the comments from the chief officer (and any responses received at the meeting) and decide whether or not to take any further action on the issue. Guidance will be provided with regard to the issues which should be considered but, in essence, the decision is about the importance of the issue raised, the capacity of the scrutiny



body to pick up the issue and the impact that doing so would have on the work programme which has been agreed for the year by Council.

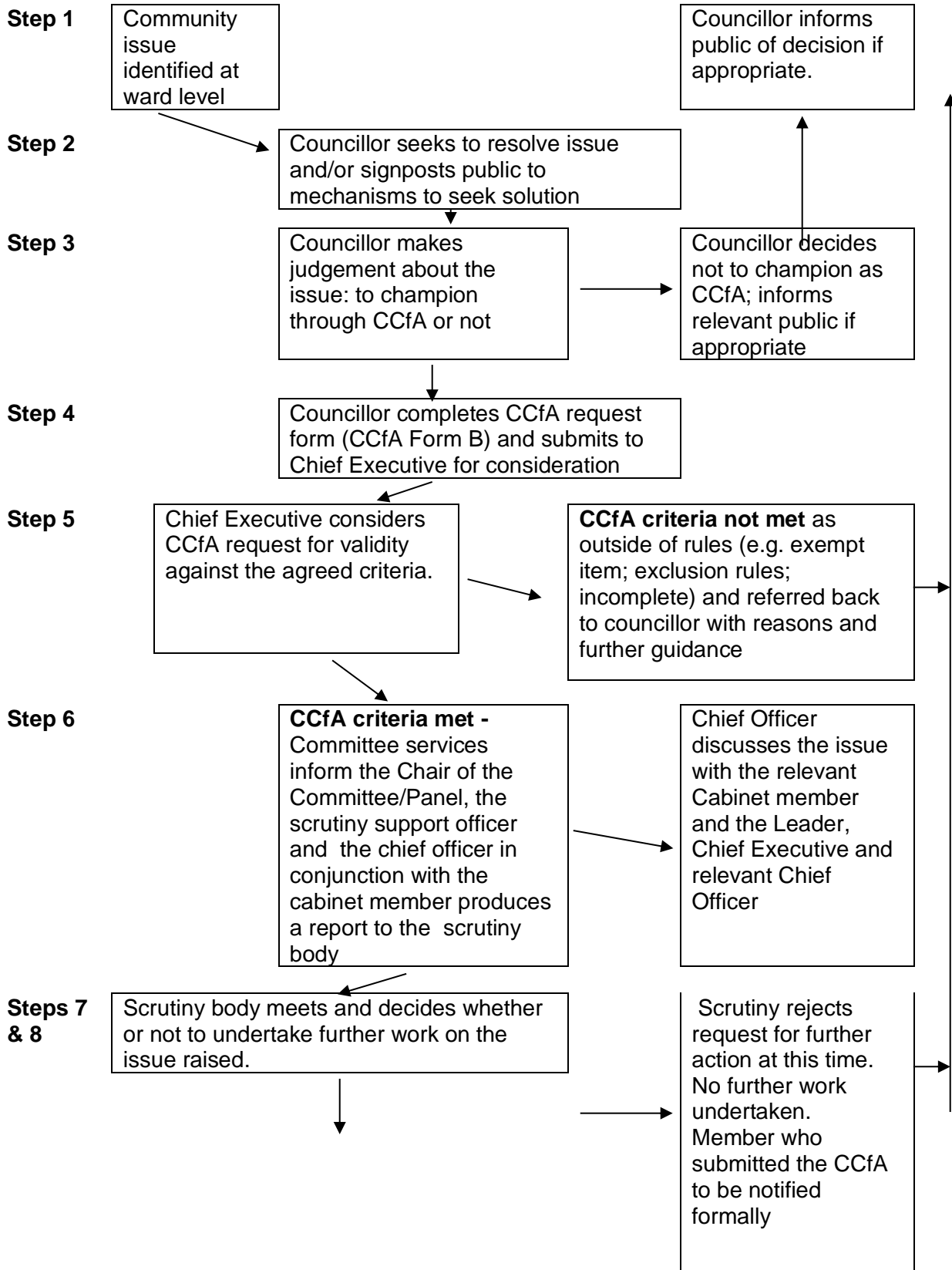
Once the Committee or scrutiny panel has reached a decision, this will be final.

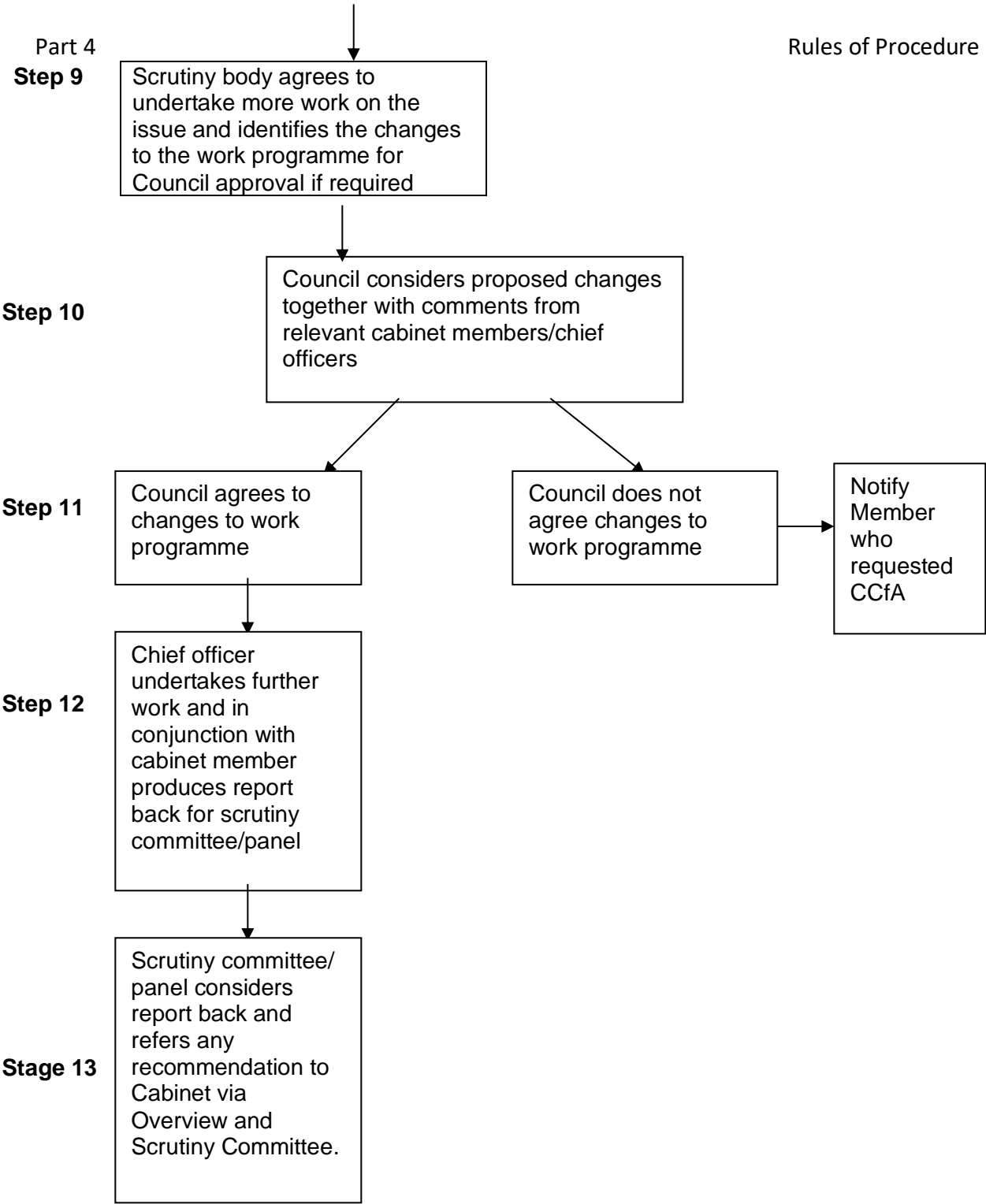
Step 8: if the scrutiny body were to agree to scrutinise the issue further, it would then need to scope the work, determine how it would collect evidence and set timescales for completion. (If the item were to be prioritised above existing work programme items, which could no longer be taken forward as a result, arrangements would need to be made to report back to Council because this would mean that the Council-approved work programme was being amended through a CCfA request.)

Steps 9-13 are self explanatory.

## ANNEXE TO OVERVIEW AND SCRUTINY PROCEDURE RULES

**Councillor Call for Action (Flowchart 2) - Councillor request for an agenda item (non-member)** Process to be used where a councillor is not a member of the scrutiny body which has the remit which covers the issue in question.





**Explanatory Note on Flowchart 2**

The following expands on how the process set out in the flow chart would need to operate in practice:

Steps 2 and 3: these steps emphasise the need for the councillor to assess each issue on its merits (whether she/he has identified the issue or it is raised with them by constituents) and to seek a resolution through the variety of mechanisms already open to them prior to considering taking the issue for ward as a CCfA. Guidance will be prepared to assist councillors in this.

Step 4: again, a standard pro-forma, with evidence of the councillor having sought other routes for resolution, is required to be completed and submitted to the Chief Executive (Committee Services Manager).

Step 5: when a form is received, the Committee Services Manager will consult with the Chief Executive on whether the CCfA request complies with the agreed criteria (that the pro-forma has been completed, that mechanisms for resolution have been tried and that the submission does not fall within any exemptions and exclusions set out above). If the CCfA does not comply, the Committee Services Manager will write to the Councillor with the reasons.

Step 6: If the CCfA meets the agreed criteria, the Committee Services Manager will refer the matter within a specified timescale to the relevant chief officer(s) for their comments (in consultation with the relevant Cabinet member(s)) and a report will be placed on an agenda of the relevant scrutiny body. The decision of the scrutiny body will again be whether or not the matter should be taken further.

The criteria the Committee or Panel will use to decide whether or not to take the matter further may include:

- (a) Is it satisfied that reasonable attempts at a resolution have been made by the ward councillor?
- (b) Has it considered a similar issue recently and, if so, have the circumstances or evidence changed.
- (c) Has the relevant service or partner agency been informed and been given enough time to resolve the issue and, if so, what response the Councillor has received.
- (d) Is the matter currently being looked at by another form of local scrutiny such as the Local Involvement Networks?
- (e) Is the matter referred, an issue which needs to be prioritised above other elements of the body's work programme or could it be deferred to be included in the work programme for the next Municipal Year?

Guidance will be provided for scrutiny bodies on this decision making process. Again, once the Committee or scrutiny panel has reached a decision, this will be final.

Therefore the process is broadly similar to that for the first procedure (the main difference being that, should the scrutiny body decide not to pursue the matter, a formal response needs to be provided to the councillor who submitted the request).



**B Cabinet Procedures****C1 Executive functions and delegations**

- (a) The Leader is vested with all executive functions. Schedule A in Part 3 to this Constitution sets out which executive functions are reserved to the Leader and which are delegated to:
- (i) the Cabinet or a committee of the Cabinet;
  - (ii) a Cabinet member;
  - (iii) an officer;
  - (iv) joint arrangements with one or more local authorities; or
  - (v) another local authority.
- (b) The person or body who has been delegated an executive function will make executive decisions in respect of that function.
- (c) At the annual meeting of the Council, the Leader will present the scheme of delegation of executive functions in relation to the coming year.
- (d) Where the Leader has not delegated executive functions, the Leader will either carry them out or delegate them to a person or body listed in paragraph C1(a).
- (e) The Leader may vary or withdraw a delegation at any time, either generally or in relation to a specific decision, and may allocate the matter to himself or herself or to a person or body listed in paragraph C1(a). Any change must be in writing and will take effect only when it is received by the Chief Executive. The Leader will provide a written record of any change of delegation to the next Council meeting.

**C2 Further delegation of executive functions**

- (a) Subject to paragraph (d), where the Cabinet is responsible for an executive function, they may delegate it to a committee of the Cabinet, to an officer, to joint arrangements or to another local authority.
- (b) Subject to paragraph (d), where a committee of the Cabinet is responsible for an executive function, they may delegate it to an officer, to joint arrangements or to another local authority.

- (c) Subject to paragraph (d), where a Cabinet member is responsible for an executive function, they may delegate it to an officer, to joint arrangements or to another local authority.
- (d) The Leader may direct that paragraphs (a), (b) or (c) will not apply to functions delegated by him or her.
- (e) Where executive functions have been delegated, that does not prevent the person or body who delegated them from carrying them out themselves.
- (f) Persons or bodies to whom executive functions have been delegated will report their acts and proceedings promptly to and conform to any regulations made by the Leader or Cabinet as the case may be.

### **C3 Record of delegations**

At the annual meeting of the Council, the Leader will present a written record of in year delegations made in the previous year. The record will contain the following information:

- (a) the extent of any authority delegated by the Leader to Cabinet members individually, including details of the limitation on their authority;
- (b) the terms of reference and constitution of such committees of the Cabinet as the Leader or the Cabinet appoints, and the names of Cabinet members appointed to them;
- (c) the nature and extent of any delegation of executive functions to any other authority or to any joint arrangements, and the names of Cabinet members appointed to any joint committee; and
- (d) the nature and extent of any delegation to officers, with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **C4 Conflicts of interest**

- (a) If the Leader has a conflict of interest, this must be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest, this must be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If there is a conflict of interest where an executive function has been delegated to a committee of the Cabinet, to an individual member or to an officer, then the function will be exercised in the first instance by the person or body by whom the delegation was made. Otherwise the conflict of interest must be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

## C5 Meetings

All meetings of the Cabinet (and its committees) will be held in public if it is to take executive decisions unless confidential or exempt information as defined in Part 4D, paragraph D10, is likely to be discussed. Should the Cabinet wish to exclude the press and public from all or part of a meeting, then it must comply with the requirement of the Access to Information Procedure Rules in Part 4D of the Constitution.

## C6 Programme of meetings

The Leader is responsible for setting the date and time of Cabinet meetings and a schedule of programmed meetings will be submitted to the Annual Meeting of the Council. The Leader, the Chief Executive (and in the case of a committee of Cabinet, the Chair) may vary the date or time, or cancel a meeting, or call a meeting where one has not been scheduled.

## C7 Chair

- (a) **Cabinet.** The Leader will preside. In his or her absence, the Deputy Leader will chair. In the absence of the Leader/Deputy Leader, the members of the Cabinet present will elect a chair.
- (b) **Meetings of committees of the Cabinet.** The Leader will preside if he or she is a member, otherwise the Cabinet will appoint a chair. In the chair's absence, the members present will elect a chair.



**C8 Quorum**

The quorum for Cabinet is 5. The Cabinet will set the quorum for meetings of any committees of the Cabinet. If a quorum is not present, either:

- (a) the meeting will be abandoned, in which case the Leader will arrange a new date and time, or
- (b) those present will informally consider the business on the agenda. While notes may be taken, no formal decisions may be made.

**C9 Business**

- (a) **Cabinet meetings.** The agenda for meetings of the Cabinet and committees of the Cabinet will be:
  - (i) considering the minutes of the last meeting;
  - (ii) declaring interests, if any;
  - (iii) considering matters referred (whether by an overview and scrutiny committee or by the Council) for reconsideration;
  - (iv) considering reports from overview and scrutiny committees; and
  - (v) considering matters set out in the agenda for the meeting. The agenda will indicate which matters are key decisions and which are not, in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

**C10 Putting items on the agenda**

- (a) **Cabinet.** The Leader may put on the agenda any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of the Cabinet or any member or officer in respect of that matter.
- (b) **Cabinet** The chair of any committee of the Cabinet, or any member of the Cabinet, may put on the agenda any matter where authority has been delegated to them.
- (c) **Cabinet meetings.** Any councillor may ask the Leader to put an item on the agenda for consideration. If the Leader agrees, that item will be considered at the next appropriate Cabinet Meeting. The notice of the meeting will give the name of the councillor who asked for the item to be considered, who will be invited to attend the meeting.

- (d) **Cabinet meetings.** The Chief Executive will place an item on the agenda of the next appropriate meeting of the Cabinet or committee of the Cabinet if the overview and scrutiny committee or the full Council have resolved that an item be considered by the Cabinet.
- (e) **Cabinet meetings.** The Chief Executive, Director of Finance or Director of Legal & HR may include an item for consideration on the agenda, and may require the Chief Executive to call a meeting.

#### C11 **Consultation**

- (a) Reports to the Cabinet about the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny panels, and the outcome of that consultation.
- (b) Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

#### C12 **Attendance of persons other than Cabinet members**

Councillors who are not members of the Cabinet, and members of the public, may attend meetings of the Cabinet and committees of the Cabinet. This right is subject to the rules which exclude access when confidential or exempt information is being discussed. These are set out in the Access to Information Procedures. Chief officers and statutory officers are entitled to attend.

#### C13 **Public involvement**

At the discretion of the Leader, councillors who are not members of the Cabinet, and members of the public who are present at a meeting, may address the Cabinet or a committee of the Cabinet on any agenda item. In exercising his or her discretion, the Leader will have regard to the efficient conduct of business and may give priority to those who have given notice in advance of the meeting. The Leader may limit the time for speaking, or may withdraw the permission to speak in order to bring the speech to a close.

#### C14 **Deputations**

At the discretion of the Leader, deputations representing members of the public may address the Cabinet or a committee of the Cabinet on any agenda item.

#### **C15 Cabinet decisions**

Executive decisions which have been delegated to the Cabinet or a committee of the Cabinet will be taken at a meeting convened in accordance with the Access to Information Procedures in Part 4 of the Constitution.

#### **C16 Cabinet member decisions**

- (a) Executive decisions which have been reserved to the Leader or delegated to individual Cabinet Members will be taken following consideration of a report which has previously been sent to the party leaders and shadow lead Members.
- (b) A report concerning a key decision must in addition be sent to the Chair of Overview and Scrutiny Committee and published at the Town Hall and on the website. A key decision may not be made by the Leader or a Cabinet member until five clear days have elapsed since the report was published.

#### **C17 Voting**

Voting at meeting will be by a show of hands. If the votes are equal, the chair of the meeting will have a second or casting vote.

#### **C18 Minutes**

The minutes of all meetings will be recorded and presented to a later meeting for confirmation. No discussion will take place on the minutes except as to their accuracy, and any question shall be decided by a majority of those members who were present at the meeting when the matter in question was decided.

#### **C19 Other procedures**

- (a) The Cabinet may otherwise follow such procedures as they may decide.

- (b) The audio/visual recording by members of the press and public of meetings of the Cabinet and its committees is not permitted without the prior consent of the Chair, in consultation with the Chief Executive.

## C Access to Information Procedures

### D1 **Scope**

These procedures apply to all meetings of the Cabinet (and its committees), Council, Overview and Scrutiny Committee and Panels, area committees (if any), Standards Committee, Planning Board, Licensing Committee and Area Planning Committees (together called 'Meetings').

### D2 **Additional rights to information**

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

### D3 **Rights to attend meetings**

Members of the public may attend all Meetings, subject only to the exceptions in these procedures.

### D4 **Notices of meeting**

The Council will give notice at the Town Hall and on the Council's web site of the date, time and place of all meetings at least five clear days before the meeting or, if the meeting is convened at shorter notice, at the time the meeting is convened.

### D5 **Access to agenda and reports before the meeting**

The Council will make available five clear days in advance of a meeting, or as soon as they are available if the meeting is called at short notice, a copy of the agenda available for inspection at the Town Hall and on the Council's web site. At the same time the relevant reports, together with a list of background papers (other than published works) relating to the subject will be published and made available at the Town Hall and on the Council's web site.

If an item is added to an agenda in the five clear days a revised agenda, together with the corresponding report(s), will be published and made available at the Town Hall and on the Council's web site as soon as possible.

### D6 **Supply of copies**

The Council will supply to any person, on payment of a charge for postage and any other costs, copies of:

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

#### D7 **Access to minutes etc after the meeting**

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

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

#### D8 **Background papers**

- (a) **List of background papers.** The relevant Chief Officer will ensure that in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
  - (i) disclose any facts or matters on which the report or an important part of the report is based; and
  - (ii) which have been relied on to a material extent in preparing the report

This does not include published works or those which disclose exempt or Confidential Information (as defined in paragraph D10), and, in respect of Cabinet reports, the advice of a political advisor.

- (b) **Public inspection of background papers.** The Council will make available for public inspection for four years after the date of the Meeting one copy of each of the documents on the list of background papers. In relation to decisions of the Cabinet or an individual Cabinet

Member the Council will make one copy of each background paper available for inspection by the public at the Town Hall and on the Council's web site at the same time the agenda or corresponding report is published.

#### D9 **Summary of public's rights**

A written summary of the public's rights to attend Meetings and to inspect and copy documents must be kept at and available to the public at the town hall.

#### D10 **Exclusion of access by the public to meetings**

All meetings are open to the public unless confidential or exempt information is likely to be discussed.

- (a) **Confidential information – requirement to exclude public.** The public must be excluded from Meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
- (b) **Exempt information – discretion to exclude public.** The public may be excluded from Meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Where the Meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the Meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.
- (c) **Meaning of confidential information.** Confidential information means information given to the council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.
- (d) **Meaning of exempt information.** Exempt information means information falling within the following 7 categories (subject to any condition):

Paragraph Number	Qualification
1. Information relating to any individual.	

<b>Paragraph Number</b>	<b>Qualification</b>
2. Information which is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—</p> <p>(a) the Companies Act 1985  (b) the Friendly Societies Act 1974  (c) the Friendly Societies Act 1992  (d) the Industrial and Provident Societies Acts 1965 to 1978  (e) the Building Societies Act 1986; or  (f) the Charities Act 1993</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes—  (a) to give under any enactment a notice under or by virtue of	



Paragraph Number	Qualification
which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Furthermore, information which—

- i. falls within any of paragraphs 1 to 7 above; and
- ii. is not prevented from being exempt by virtue of the qualifications,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**D11 Exclusion of access by the public to reports (non-executive Member level bodies)**

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with paragraph 10, the Meeting is likely not to be open to the public. Such reports will be marked “not for publication” together with the category of information likely to be disclosed.

**D12 Cabinet Meetings – Exclusion of Press and Public**

If the Cabinet proposes to exclude the press and public from a meeting while it considers confidential or exempt information, the Chief Executive will:

- a. 28 clear days before the meeting make available at the Town Hall and on the Council’s web site a notice of the intention to exclude the press and public and the reasons why.

- b. 5 clear days before the meeting make available at the Town Hall (and published to the web site) a further notice of the intention to exclude the press and public and the reasons why, together with the details of any representations received about why the meeting should be held in public and the response to those representations.

Where it is impracticable to comply with these timescales, the public may only be excluded if the chair of the Overview and Scrutiny Committee, or if she or he is unable to act, the Mayor agrees that the meeting is urgent and cannot be reasonably deferred. The Chief Executive will make available at the Town Hall a notice setting out the reasons why the making of the decision is urgent and cannot reasonably be deferred and will publish that notice to the web site.

### **D13 Application of procedures to the Cabinet**

Paragraphs D14 – D22 apply to the Cabinet (and its committees) and in relation to Chief Officer key decisions. Non-key decisions taken by the Cabinet (or a committee of the Cabinet) shall comply with Paragraphs D1 – D11 and shall be taken in public unless confidential or exempt information is likely to be disclosed.

### **D14 Procedure before taking key decisions**

A key decision is defined in Article 13.03 of this Constitution.

Subject to paragraph D15 (general exception) and paragraph D16 (special urgency), a key decision may not be taken by the Leader, individual Cabinet Member, Cabinet (or a committee of Cabinet) or a Chief Officer unless:

- (a) a notice has been published to the Council's web site and at the Town Hall in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the notice.
- The notice to detail:
- The subject matter
  - Details of the decision taker;
  - The date or period in which the decision will be taken;
  - The documents to be submitted to the decision taker;
  - The address from which the documents on which the decision will be taken will be available from;

- confirmation that other documents relevant to those matters may be submitted to the decision taker; ; and
  - The procedure for requesting details of those documents as they become available.
- (c) where the decision is to be taken at a Meeting of the Cabinet or its committees, notice of the Meeting has been given in accordance with paragraph D4 (notice of meetings).

Criteria and Guidance on Key Decisions is set out in the Appendix to these procedures.

#### **D15 General exception**

If a matter which is a key decision and has not complied with D14 (28 days notice of the decision), then subject to paragraph D16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has complied with D14;
- (b) the Chief Executive has informed the chair of the overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the Council's office and on its web sites; and
- (d) at least 5 clear days have elapsed since the proper officer complied with (b) and (c) above.

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

#### **D16 Special urgency**

If paragraph D15 cannot be followed because the decision is urgent and can not be reasonably deferred, a decision can only be taken if the decision taker

(if an individual) or the chair of the body making the decision obtains the agreement of the chair of Overview and Scrutiny Committee. If there is no chair of Overview and Scrutiny Committee, or if the chair is unable to act, then the agreement of the Mayor, or in his/her absence, the Deputy Mayor will suffice.

As soon as reasonably practicable after agreement has been obtained that the decision is urgent and can not be reasonably deferred the decision taker must make available at the Town Hall, and published to the web site, a notice setting out the reasons.

#### D17 **Report to council**

(a) **When Overview and Scrutiny Committee can require a report.** If Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (i) included in the forward plan; or
- (ii) the subject of the general exception procedure under paragraph D15; or
- (iii) the subject of an agreement with the chair of Overview and Scrutiny Committee, or the Mayor/Deputy Mayor under paragraph D16;

Overview and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the Overview and Scrutiny Committee, but is also delegated to the Chief Executive, who must require such a report on behalf of the Overview and Scrutiny Committee when requested by the chair or by resolution of Overview and Scrutiny Committee.

(b) **Cabinet's report to Council.** The Cabinet will prepare a report for submission to the next available Council meeting. If the next meeting is within 7 days of receipt of the written notice, or of the resolution of Overview and Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision and, if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

- (c) **Quarterly reports on special urgency decisions.** The Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in paragraph D16 (special urgency) in the preceding three months. The report will include the number of decisions taken and a summary of the matters in respect of which those decisions were taken.

#### D18 **Record of decisions**

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

#### D19 **Record of individual decision**

As soon as reasonably practicable after a key decision has been taken by an officer, he/she will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of paragraphs D7 and D8 (inspection of documents after meetings) will also apply to the making of key decisions by officers. This does not require the disclosure of exempt or confidential information.

#### D20 **Publication of decision**

- (a) The records of decisions taken by the Cabinet, Cabinet Committees and individual Cabinet Members, and key decisions taken by officers and under joint arrangements, will be published normally within one day of the decisions being taken. In accordance with the Overview and Scrutiny Procedures (Part 4B of this Constitution) the record will bear the date on which it has been published, and will specify when the decision(s) will come into force.
- (b) On publication the record will be available for public inspection at Woolwich Town Hall during normal office hours.
- (c) The record will also normally be made available on the day of publication on the Council's Website and Intranet, in the Members Information Room at Woolwich Town Hall and at Woolwich Library. It will be sent to the Members of the Overview and Scrutiny Committee

and the relevant Scrutiny Panels by the Council's normal delivery arrangements or by e-mail if practicable.

**D21 Overview and scrutiny committees access to documents**

- (a) **Rights to copies.** Subject to paragraph D21 (b) below, Overview and Scrutiny Committee (including Scrutiny Panels) are entitled, within 10 days of making a request, to copies of any document which is in the possession or control of the Cabinet (or its committees) and which contains material relating to any business transacted at a meeting of the Cabinet where decisions are taken. This does not include meetings called for the purposes of briefing members of the Cabinet.
- (b) **Limit on rights.** Overview and Scrutiny Committee will not be entitled to:
- (i) any document that is in draft form;
  - (ii) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
  - (iii) the advice of a political adviser.

**D22 Additional rights of access for members**

- a. All members of the Council are entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to:
- I. Any business to be transacted at a meeting which the public may attend;
  - II. Any business which has been transacted at a meeting where the public were excluded;
  - III. Any decision made by a Cabinet Member; and
  - IV. Any key decision made by an Officer.
- b. These rights do not apply where the document contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the table in paragraph D10 above, or where the information relates to any terms proposed or to be proposed in the course of contractual negotiations.

- c. In the case of a Cabinet meeting, documents under (i) above will be available for inspection at least five clear days before the meeting or when the meeting is convened if later. Documents under ii, iii and iv above will be available for inspection within 24 hours of the end of the meeting or the taking of the decision.
  
- d. These rights of a Member are additional to any other right he / she may have.

## **CRITERIA AND GUIDANCE ON KEY DECISIONS**

In deciding whether a matter constitutes a Key Decision to be subject to a 28 day public notice, the following tests should be used. An answer **'YES'** to either test would mean that the matter is a key decision.

### **EXEMPTIONS**

- ✓ Investment/Divestment relating to operational decisions exercised under the Council's Treasury Management Strategy
- ✓ Decisions relating to the direct provision of services to individuals under the existing budgetary and policy framework
- ✓ Agreed delegations to Director of Regeneration, Enterprise and Skills in respect of Regeneration Programmes

### **BASIC CONDITIONS**

**The two tests should only be applied to decisions if they comply with the following basic criteria:**

It is a necessary decision under delegated or executive powers.

The financial effect will result in the movement, allocation, reduction or increase of resources in respect of income or expenditure.

It has never previously been decided or specifically identified. *See below (1) for further guidance.*

It requires the specific reconsideration of a decision.

### **KEY DECISION TEST 1 - FINANCIAL LIMITS**

**Can you answer 'Yes' to the following questions? If so the decision will be deemed to be a key decision.**

**Do one of the following annual financial effects apply in respect of revenue?**

**Is the decision expected to have either effect**

Over £500,000?

Between £100,000 to £500,000 **and** is more than 10% of the relevant budget?

*See below (2) for further guidance*

**If in any doubt please refer your Directorate Finance Manager or Corporate Finance**



**Do one of the following aggregate financial effects apply in respect of capital?  
Is the decision expected to have an effect**

Over £500,000?

Between £100,000 to £500,000 **and** is more than 10% of the relevant budget? *See below (2) for further guidance*

If in any doubt please refer your Directorate Finance Manager or Corporate Finance

## **KEY DECISION TEST 2 – SENSITIVITY AND IMPACT**

**Can you answer ‘Yes’ to the following questions?**

Is it a decision that has a significant effect on an area covering 2 or more wards?

Is it a decision which is likely to be either sensitive, have a material impact, or have a significant effect upon the manner in which the Council conducts it’s business?

**Note:-** The Chief Executive or the appropriate chief officer can require that a decision be treated as a key decision for reasons of sensitivity, funding or professional judgement, and also to ensure the consistent application of this test across the Authority.

## **FURTHER GUIDANCE**

### **Further Guidance 1**

#### **How to determine whether a decision has already been specifically made**

If there is an existing budget provision that defines the specific activity to which the decision relates there is good reason to consider that the decision has already been made. However, if the budget is to be used for a purpose not specified, or levels of delegation are breached, then the decision cannot be deemed to have been made.

#### **Some Examples**

1. **Decision Made** - the purchase of furniture and equipment for the town hall from the town hall furniture and equipment budget  
**Decision Not Made** - the purchase of furniture and equipment for the town hall from the hall porters employee budget
2. **Decision Made** - the letting of a contract in respect of a school roof renewal contained within the agreed planned maintenance programme

**Decision Not Made** - the letting of a contract in respect of a school roof renewal from a contingency budget

3. **Decision Made** - the sale of an individual property which was identified in a disposal programme approved by Cabinet or Cabinet Committee

**Decision Not Made** - the sale of an individual property which was not specifically identified.

## **Further Guidance 2**

### **What is a relevant budget. The test of reasonableness must be applied here:**

#### **Revenue:**

In any case the relevant revenue budget will apply at no higher than division or service level. In some instances the relevant revenue budget may well apply at individual cost centre level where there is delegated responsibility. Generally the budget will be defined at the lowest level of budget holder responsibility.

#### **Examples**

1. The letting of a large-scale library equipment replacement contract – the relevant revenue budget will be considered at library service level. Not individual library level (too low) nor Public Services total budget level (too high).
2. The purchase of new books for a school – the relevant budget will be considered at individual school level.

#### **Capital:**

The relevant capital budget will apply at programme level.

#### **Example**

3. The letting of a contract to build a new school – the relevant budget considered will generally be related to the school specifically as an identifiable capital project.
4. If the build of a new school is part of a larger identified capital project, which has been agreed as such, it will be deemed to be budgeted at the programme level.

**If in any doubt please refer your Directorate Finance Manager or Corporate Finance**

## D Budget and Policy Framework Procedures

### E1 **The framework for executive decisions**

- (a) The Council is responsible for the adoption of the Budget and Policy Framework as set out below and in Article 4. Once a budget or a policy is in place, it is the responsibility of the Cabinet to implement it.

#### *Required by law*

- Best Value Performance Plan;
- Children and Young People's Plan;
- NHS Local Delivery Plan (as incorporated in the Health Improvement Programme);
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Local Transport Plan;
- Plans and strategies which together comprise the Development Plan;
- Youth Justice Plan;
- Licensing Policy Statement.

#### *Additional plans and strategies*

- The Council's Vision Statement;
- The plan and strategy which comprise the Housing Investment Programme;
- Adult Learning Plan.

### E2 **Cabinet proposals for the budget or policy framework**

- (a) The Cabinet will publish a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation. The Cabinet will publish the timetable in the forward plan, in the Council's annual plan, at the Town Hall and on the Council's web site.

- (b) As part of the consultation, the Cabinet will canvass the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration.
- (c) Overview and Scrutiny Committee or its Panels may investigate, research or report in detail, having regard to its Annual Plan as agreed by full Council. If Overview and Scrutiny Committee has carried out a review of policy in respect of the matter, it will report the outcome to the Cabinet.
- (d) The Cabinet will take any response from Overview and Scrutiny committee into account in drawing up proposals for submission to the Council. Its report to the Council will reflect the comments made by consultees and the Cabinet's response.
- (e) If the Council accepts the Cabinet's proposals without any objections, its decision will be effective immediately.
- (f) If the Council objects to the Cabinet's proposals for the policy framework, it must take the action set out in paragraph E3.
- (g) If the Council objects to the estimates and/or amounts submitted by the Cabinet before 8 February in any financial year in relation to the following financial year:
  - (i) to be aggregated in making a calculation in accordance with sections 32 to 37 or 43 to 49 Local Government Finance Act 1992, or to be used for such a calculation, or
  - (ii) to be stated in a precept under Chapter IV Part 1 Local Government Finance Act 1992

it must take the action set out in paragraph E4. This does not apply to calculations or substitute calculations which the Council is required to make in accordance with sections 52I, 52J, 52T or 52U Local Government Finance Act 1992 or to precepts issued to give effect to those calculations.

### **E3 Council objection to policy framework proposals**

- (a) Before the Council amends, approves or adopts the Cabinet's proposals, it must inform the Leader of any objections it has to them,

and require the Cabinet to reconsider its proposals in the light of those objections. It must also specify at least 5 clear working days within which the Leader may, on behalf of the Cabinet:

- (i) submit revised proposals and the reasons for any amendments, or
  - (ii) inform the Council of its disagreement with the Council's objections and its reasons.
- (b) The Chief Executive will convene a further meeting of the Council to be held when the period specified above has expired. At that meeting, the Council will take into account any of the matters in paragraph E3 (a) (i) and (ii) submitted by the Cabinet within the specified period when it amends, approves or adopts the Cabinet's proposals or revised proposals.

#### **E4 Council objection to budget proposals**

- (a) Before the Council makes a calculation or issues a precept, it must inform the Leader of any objections it has to the Cabinet's estimates or amounts, and require the Cabinet to reconsider them in the light of those objections. It must also specify at least 5 clear working days within which the Leader may, on behalf of the Cabinet:
- (i) submit revised estimates or amounts and the reasons for any amendments, or
  - (ii) inform the Council of its disagreement with the Council's objections and its reasons.
- (b) The Chief Executive will convene a further meeting of the Council to be held when the period specified above has expired. At that meeting, the Council will take into account any of the matters in paragraph E4 (a) (i) and (ii) submitted by the Cabinet within the specified period when it amends, approves or adopts the Cabinet's proposals or revised proposals.

#### **E5 Virements and in-year changes**

In approving the Budget and Policy Framework, the Council will also specify the extent to which the Cabinet may, in accordance with paragraphs E8 and E9, vary within the Budget and make in-year changes to the Policy Framework. Any other changes to the Budget and Policy Framework are reserved to the Council.

#### **E6 Decisions outside the budget or policy framework**

- (a) In these procedures, 'executive decision taker' means the Cabinet, a committee of the Cabinet, an individual member of the Cabinet, an officer or a joint arrangement which discharges executive functions.
- (b) An executive decision taker must take decisions which are in line with the Budget and Policy Framework, subject to paragraphs E7, E8 and E9 (urgent decisions, variation and in year changes). Otherwise the Council must take the decision.
- (c) If an executive decision taker wants to take a decision outside the Budget and Policy Framework, he/she must first take advice from the Chief Executive, Chief Finance Officer or Monitoring Officer. If the advice from any of these officers is that the decision would be outside the Budget and Policy Framework, the executive decision taker must refer the decision to full Council, unless paragraph E7 applies (urgent decisions).
- (d) If Overview and Scrutiny Committee believe an executive decision taker is about to take a decision or action which would be outside the Budget and Policy Framework, they must take advice from the Chief Executive, Chief Finance Officer or Monitoring Officer. If the advice from any of these officers is that the proposed decision or action would be outside the Budget and Policy Framework, the executive decision taker must:
  - (i) take immediate steps to act within the Budget and Policy Framework, or
  - (ii) refer the proposed decision to full Council, unless paragraph E7 applies (urgent decisions).

#### **E7 Urgent decisions outside the Budget or Policy Framework**

- (a) An executive decision taker may take an urgent decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, provided:

- (i) it is not practical to convene a quorate meeting of the full Council; and
  - (ii) the chair of Overview and Scrutiny Committee (or in his/her absence the Mayor or Deputy Mayor) agrees that the decision is urgent.
- (b) The reasons why it is not practical to convene a quorate meeting of full Council, and the consent of the Chair of Overview and Scrutiny Committee, must be noted on the record of the decision.
- (c) Following the decision, the executive decision taker will report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as urgent.

#### **E8 Virement**

- (a) The Council will have the budget heads described in the Budget.
- (b) Steps taken by an executive decision taker to implement Council policy may not exceed the budgets allocated to each budget head. However, they may vire across budget heads in accordance with the Financial Regulations in Part 4F of this Constitution.

#### **E9 In-year changes to the Policy Framework**

An executive decision taker may not change any plan or strategy that makes up the Policy Framework, except a change:

- (a) which would result in the closure or discontinuance of a service or part of service to meet a budgetary or operational constraint;
- (b) which is necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
- (d) which is required by an organisation which is a partner to the plan or strategy; or

- (e) which relates to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.



## E Financial Regulations

### **Section A: Financial Management**

#### **A1 Preface**

- A1.1 These Financial Regulations govern the conduct of the financial administration of the Council and may only be amended or varied by resolution of the Council. The Financial Regulations are a key part of the Council's Corporate Governance arrangements.

#### **A2 Council**

- A2.1 The Council, as detailed in its Constitution, is responsible for making and amending from time to time such Financial Regulations as it considers necessary and desirable for the supervision and control of the finances, accounts, income, expenditure and assets of the Council in conformity with Article 14.01 (Financial Management) of the Constitution.

#### **A3 Cabinet**

- A3.1 The Cabinet is responsible for making sure that Council services are delivered, and for Executive functions. The Cabinet also leads Council-wide policy and strategy development on issues that cover all Council departments.

#### **A4 The Overview and Scrutiny Committee**

- A4.1 The Overview and Scrutiny Committee monitors and reviews Council services and performance to make sure that local needs and service standards are met. The Overview and Scrutiny Committee also monitors decisions made by the Council's Cabinet, and co-ordinates and oversees all overview and scrutiny functions on behalf of the Council.

#### **A5 The Finance and Public Services Scrutiny Panel**

- A5.1 The Finance and Public Services Scrutiny Panel is responsible for monitoring the budget management and general performance of Council services, scrutinising the outcome of decisions and actions taken by or on behalf of the Cabinet; and performance monitoring of key best value performance indicators.

**A6 The Audit and Risk Management Panel**

A6.1 The Audit and Risk Management Panel provides an independent assurance of the adequacy of the risk management framework and the associated control environment of the Council, including the effectiveness of the Internal Audit and Corporate Anti-Fraud functions. The Panel maintains an audit overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour. The Panel considers the Council's audit arrangements for corporate governance and compliance with best practice.

**A7 The Chief Executive**

A7.1 The Chief Executive is responsible for the corporate and overall strategic management of the authority as a whole. The Chief Executive must report to and provide information for the Cabinet, the full Council, the Overview and Scrutiny Committee and other committees. The Chief Executive is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Chief Executive is also responsible, together with the Monitoring Officer, for the system of record-keeping in relation to all the full Council's decisions.

**A8 The Monitoring Officer**

A8.1 The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and for reporting any actual or potential breaches of the law or administration to the full Council and the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

A8.2 The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. The Monitoring Officer must also ensure that Members are aware of decisions made by the Cabinet and of those made by officers who have delegated Cabinet responsibility.

A8.3 The Monitoring Officer is responsible for advising all Councillors and officers about who has authority to take a particular decision.

A8.4 The Monitoring Officer is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.

A8.5 The Monitoring Officer (together with the Director of Finance) is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

- a. initiating a new policy;
- b. committing expenditure in future years to above the budget level;
- c. incurring interdepartmental transfers above virement levels;
- d. causing the total expenditure financed from Council Tax, grants and corporately-held reserves to increase, or to increase by more than a specified amount.

A8.6 The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

## **A9 Director of Finance**

A9.1 The Director of Finance will be the Responsible Financial Officer in relation to the financial administration and stewardship of the authority. The Assistant Directors of Finance and the Departmental Finance Officers assist the Director of Finance to discharge his/her responsibilities. The statutory duties arise from:

- a. Sections 115 and 146 of the Local Government Act 1972
- b. Section 151 of the Local Government Act 1972
- c. Section 114 of the Local Government Finance Act 1988
- d. Local Government and Housing Act 1989
- e. Accounts and Audit Regulations 2003 and 2006

A9.2 The Director of Finance will authorise nominated deputies to act on his or her behalf, when required, in accordance with the requirements of the Local Government Finance Act 1988.

A9.3 The Director of Finance has a statutory responsibility to ensure that the accounts and supporting records of the Council are maintained and monitored in accordance with financial management standards. The Director of Finance is responsible for selecting accounting policies and ensuring that they are applied consistently. The Director of Finance must ensure that adequate systems and procedures exist to account for all income due and expenditure made on behalf of the Council and that

controls operate to protect the Council's assets from loss, waste, fraud or other irregularity.

**A9.4** The Director of Finance is responsible for:

- a. advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- b. setting and monitoring compliance with financial management standards;
- c. providing financial information;
- d. preparing the revenue budget and the capital programme;
- e. treasury management;
- f. advising the Cabinet and/or the full Council on prudent levels of reserves for the authority;
- g. ensuring that the annual statement of accounts and associated statutory documents are prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA);

**A9.5** The Director of Finance will provide full copies of the Financial Regulations and associated Financial Procedures to all Council Members following the Council elections.

**A9.6** Under the Local Government Finance Act 1998 the Director of Finance will report to the full Council and Cabinet if the authority or one of its officers:

- a. has made, or is about to make, a decision which involves incurring unlawful expenditure;
- b. has taken, or is about to take, an unlawful action which has resulted or would result in the loss or deficiency to the authority;
- c. is about to make an unlawful entry in the authority's accounts.

## **A10 Chief Officers**

- A10.1 For the purpose of these Financial Regulations the term Chief Officer means a Head of a Directorate or Department.
- A10.2 Each Chief Officer is responsible for ensuring that the Council's Financial Regulations and Financial Procedures are complied with at all times within the service area(s) under his or her control, and for ensuring that employees are properly trained to enable them to comply with the Financial Regulations and Financial Procedures.
- A10.3 Each Chief Officer is responsible for accountability and control of employees and the security, custody and control of all other resources including plant and equipment, buildings, materials, cash and stores appertaining to his or her service area(s).
- A10.4 Chief Officers must ensure that the Director of Finance and the Director of Legal & HR are given the opportunity to provide written comments and advice for all decision items reported to the Cabinet, the Council or any other approved Member body. Reasonable notice must be given to those officers in order that the comments on such reports can be provided. The timescales to be followed are included within Financial Procedures.
- A10.5 Chief Officers may delegate their authority to incur expenditure by means of a scheme of delegation and will keep a formal record of such delegation and any financial limits imposed. A copy of the record will be provided annually to the Director of Finance and every time it changes.
- A10.6 Chief Officers are responsible for:**
- a. Ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Director of Finance;
  - b. Signing contracts on behalf of the authority;
  - c. Consulting the Director of Finance and seeking approval on any matter liable to affect the authority's finances materially before any commitments are incurred;
  - d. Agreeing in-year virements within delegated limits, in consultation with Director of Finance, where required;

- e. Ensuring that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet;
- f. Controlling income and expenditure within their area and monitoring performance, taking account of financial information provided by the Director of Finance;
- g. Reporting on variances within their own areas;
- h. Taking any action necessary to avoid exceeding their budget allocation;
- i. Alerting the Director of Finance to any financial problems.

## **A11 Accounting**

- A11.1 All the accounts and accounting records of the Council will be compiled and maintained in a manner and format agreed by the Director of Finance. The Director of Finance will determine the form, content and operation of the Council's Financial Systems.
- A11.2 Any Directorate/Departmental financial systems, accounting systems and financial organisation must be referred to, and agreed by, the Director of Finance prior to introduction or revision and must comply with standards set by the Director of Finance.
- A11.3 Chief Officers will ensure that all accounting transactions are recorded promptly and accurately in the Council's accounting systems.
- A11.4 Chief Officers must ensure that any reconciliations required from them by the Director of Finance are accurately completed and resolved in accordance with any timetable issued by the Director of Finance.
- A11.5 Chief Officers will comply with guidelines, instructions and timetables issued by the Director of Finance and supply the required information to ensure the closure of the Council's accounts.
- A11.6 The duties of identifying and providing information in respect of sums due to or from the Council and of calculating, checking and recording those sums will be separated as completely as possible from the duties of collecting or disbursing them. Where a complete separation of duties

cannot be achieved, the Director of Finance will be responsible for agreeing with the appropriate Chief Officer(s) the arrangements to be applied.

## **Section B: Financial Planning**

### **B1 Introduction**

B1.1 The full Council is responsible for agreeing the authority's policy framework and budget which will be proposed by the Cabinet. In terms of financial planning the key elements are:

- a. The corporate performance and development plan
- b. The budget
- c. The capital programme

### **B2 Policy Framework**

B2.1 The full Council is responsible for approving the policy framework and budget. The full 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. Decisions should be referred to the full Council by the Monitoring Officer.

B2.2. The full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework with the financial limits set by the Council.

### **B3 Budgeting and Control**

B3.1 The Council's Budget and Policy Framework Procedures are set out in Part 4 (E) of the Council's Constitution.

B3.2 Each year Chief Officers will prepare draft revenue budget proposals of expenditure and income for the forthcoming financial year in the form required by the Council.

B3.3 Chief Officers will prepare budget proposals in accordance with guidance and timetables issued by the Director of Finance. Budgets will be provided to the



Cabinet and Director of Finance who will report detailed budget proposals to the Council for approval.

B3.4 The Director of Finance will report to the Council on:

- a. the aggregate budget for all Directorates and Departments together with any other matters related to the revenue budget submitted for approval.
- b. the aggregate capital programme and financing arrangements.

B3.5 The approved annual revenue and capital budgets will form the basis of financial control for the ensuing financial year.

#### **B4 Authority to Incur and Control Revenue Expenditure**

B4.1 Chief Officers must ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify employees authorised to act on the Chief Officer's behalf or on behalf of the Cabinet in respect of payments and placing orders, together with the limits of their authority. Chief Officers may only incur revenue expenditure on activities and matters approved by the Council and contained within the budget for that financial year, except where there is otherwise an explicit authorisation to incur such expenditure in Financial Procedures.

B4.2 Chief Officers will be responsible for the control of their respective budgets and must keep under review at all times the current spending and income against each budget heading. Regular reporting of the position will be undertaken as specified in Financial Procedures. Each budget will have an identified, respective, responsible officer.

B4.3 Chief Officers will contain expenditure within the approved budget. If they are unable to do so by exercise of their delegated powers, they shall immediately inform the Director of Finance of the circumstances and provide a report on the position to the Cabinet with options provided to eliminate the identified overspend.

B4.4 At the end of the financial year, and following the formal closure of the revenue accounts, Chief Officers will report via the Director of Finance to the Cabinet on the outturn of expenditure and income in comparison with the

approved budget for the year. The Director of Finance will report to the Council on the aggregate revenue outturn for all services.

- B4.5 The reporting arrangements and limits for budget virements will be specified by the Director of Finance in Financial Procedures.

## **B5 Authority to Incur and Control Capital Expenditure and Planned Maintenance Schemes**

- B5.1 The Council shall approve annually the Capital and Planned Maintenance Programmes for the authority including both schemes continuing from previous years' approved programmes and any new capital schemes.
- B5.2 Schemes must be costed prior to inclusion in the capital and planned maintenance programmes. For General Fund property schemes this is the responsibility of the Director of Regeneration, Enterprise and Skills. For Housing and non-property schemes this is the responsibility of the relevant Chief Officer
- B5.3 Capital schemes and planned maintenance schemes may not go to tender (or other procurement processes be undertaken) without the approval of the Council. For all property-related schemes and all other capital schemes over £100,000, approval to commence shall not be given until the full details of the scheme have been reported to Council, either at the time of approval of the capital and planned maintenance programmes or in an individual report. The information reported should include a full financial appraisal of capital and revenue costs, including preparatory costs, fees, the phasing of capital and planned maintenance expenditure and long term running costs.
- B5.4 All property disposals (except for Right to Buy Sales) shall be undertaken by the Director of Regeneration, Enterprise and Skills. He/she shall produce annually a disposal programme covering surplus land and property for approval by Council and shall have authority to dispose of any assets approved in that list.
- B5.5 At the end of the financial year, following the closure of the accounts, the Director of Finance shall report to Cabinet and Council on the aggregate capital expenditure compared to the capital budgets and the financing of the capital programme and the outturn position on planned maintenance programmes.

B5.6 Financial Procedures shall include the limitations on allowable cost increases, the authority of officers to accept tenders, reporting requirements and requirements for including schemes within the programme.

## **Section C: Risk Management And Control Of Resources**

### **C1 Risk Management**

- C1.1 The Director of Finance will be responsible for ensuring that adequate risk management arrangements exist within the Council. Chief Officers will ensure that all risks faced by their Directorates and Departments (including those projects and partnerships for which they have lead responsibility), whether financial or non-financial and whether insured or non-insured, are reported and recorded in the appropriate risk registers (together with measures for managing those risks and accountabilities) in accordance with the Council's Risk Management Policy and Risk Management Strategy. Chief Officers will ensure that all risks identified are regularly reviewed to ensure that risk registers are up to date and that controls and any further mitigating actions have been identified and implemented, where required.
- C1.2 Chief Officers will ensure that risk management is integrated within their Directorates/Departments' business processes, particularly in relation to strategic planning, financial planning, policy-making and review and performance management. Where applicable, risk management comments should be included in the appropriate reports to Members.
- C1.3 The Director of Finance will ensure that the appropriate risk registers are maintained for all types of current and potential new risks.

### **C2 Internal Control**

- C2.1 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 economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C2.2 The Director of Finance 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 effectively, and in accordance with the statutory and other authorities that govern their use.

- C2.3. Chief Officers are responsible for establishing 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 and service targets.
- C2.4 The Director of Finance is responsible for preparing the statutory Annual Governance Statement (incorporating the Statement on Internal Control). The Annual Governance Statement is a corporate document signed by the Chief Executive and the Leader of the Council.

### **C3 Audit, Anti-Fraud, Inspection and Investigation**

- C3.1 The Director of Finance will, in accordance with the Accounts and Audit Regulations 2003 and 2006, be responsible for maintaining an adequate and effective system of internal audit of the Council's activities. The Director of Finance is responsible for the development and maintenance of any anti-fraud and anti-corruption policy.
- C3.2 The Director of Finance is responsible for reviewing, appraising and reporting on the soundness, adequacy and application of financial and other related management controls and the extent of compliance with, and financial effects of established policies, plans and procedures. The Director of Finance must also review and report on the extent to which the Council's assets and interests are safeguarded from losses of all kinds arising from fraud and other offences, waste, extravagance, poor value for money or any other cause. The Director of Finance will arrange and conduct a continuous and current internal audit of the accounting, financial and other operations of the Council.
- C3.3 The Director of Finance will be responsible for the operation of the Council's Anti-Fraud Team. Any employee or Member who discovers, or has reasonable suspicion, of any fraud, theft, money-laundering or other irregularity is responsible for immediately reporting their concern to the Anti-Fraud Team.
- C3.4 The Director of Finance will be responsible for the production of an annual report on the work undertaken by the Audit/Anti-Fraud Teams in support of the Statement on Internal Control and the deliverance of good governance
- C3.5 The Director of Finance, other Chief Officers and their authorised representatives, must ensure that staff in their Directorates or Departments facilitate the free operation of the work undertaken by the Audit/Anti-Fraud Teams across the whole of the Council's activities and operations. The Audit/Anti-Fraud Teams should be provided with unrestricted access to all

records, assets, personnel and premises including those of partnering and contracting organisations and with such information and explanations as it considers necessary to fulfil their responsibilities.

C3.6 The Council may from time to time be subject to audit, inspection or investigation by external bodies such as the Audit Commission, HM Revenue and Customs, who have statutory rights of access.

#### **C4 Staffing<sup>7</sup>**

C4.1 The Chief Executive is responsible for providing overall management to staff. The Chief Executive is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

C.4.2 Chief Officers are responsible for controlling staff numbers by:

- a. adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs.
- b. the proper use of recruitment, selection and appointment procedures.

C4.3 All staff must comply with Financial Regulations and Financial Procedures at all times. Any employee who, knowingly or by negligence commits, or is a party to, a breach of the Financial Regulations and Financial Procedures could be subject to disciplinary action as a consequence.

C4.4 Staff must report known, intended or anticipated breaches of Financial Regulations and Financial Procedures to their respective Departmental Finance Officers or the Anti-Fraud Team as appropriate. These individuals are responsible for informing the Council's Section 151 Officer (Director of Finance).

#### **C5 Gifts and Hospitality and Declarations of Interests**

C5.1 Chief Officers and employees must not accept any gift, reward, favour or benefit from any member of the public, organisation or company with whom they have been brought into contact by reason of their official duties unless there are specific circumstances approved by the Director of Finance. The

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<sup>7</sup> All references to Employees and Staff in these Regulations include Consultants, Interim Managers, Agency Employees and other non-permanent workers.

Director of Finance will detail the special circumstances in Financial Procedures. Each Directorate must maintain a Gift and Hospitality Register in which employees, consultants, agency employees and other non-permanent workers record offers of gifts and hospitality made, rejected and accepted.

- C5.2 Employees working for the Council must declare any potential conflicts of interest in accordance with the Council's "Officers' Declaration of Interest Policy". Chief Officers are required to maintain a register of interests which will cover personal, financial or business interests which may, or may be perceived to, influence judgement. A return must be completed by all employees falling within the Council's policy at least annually and whenever their circumstances change.

## **C6 Treasury Management**

- C6.1 The Director of Finance will have the authority to aggregate all monies under the stewardship of the Council for the purposes of treasury management.
- C6.2 The Director of Finance will have the authority to take all decisions on borrowing, investment and financing in accordance with the Council's Treasury Management Strategy, having regard to the Council's Prudential Indicators and the Council's Treasury Management Policy.
- C6.3 All lending and borrowing instruments will bear the signature or facsimile signature of the Director of Finance or the deputies authorised by the Director of Finance.
- C6.4 The Director of Finance will report to the Council in accordance with procedures set out in the Council's Treasury Management Strategy and the CIPFA Prudential Code for Capital Finance in Local Authorities.

## **C7 Assets**

- C7.1 Chief Officers should ensure that records and assets are properly maintained and securely held. Chief Officers should also ensure that contingency plans are in place for the security of assets and continuity of service in the event of disaster or system failure.

## Section D: Systems And Procedures

### **D1 Income Management and Debt Recovery**

- D1.1 Chief Officers will be responsible for managing income collection and ensuring that all potential sources of income are identified and maximised. Chief Officers must ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify employees authorised to act on the Chief Officer's behalf or on behalf of the Cabinet in respect of income collection.
- D1.2 The Director of Finance must approve the method of income collection for each type of income.
- D1.3 The Director of Finance, as Responsible Financial Officer, will have authority to determine the Council's procedures in respect of debt recovery and the write-off of debts. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

### **D2 Insurance**

- D2.1 The Director of Finance will be responsible for effecting all insurance cover with the Council's approved insurers on behalf of the Council.
- D2.2 Chief Officers will provide prompt notification to the Director of Finance of the extent and nature of all potential new risks to be insured and of any alterations affecting insurable risks in their Directorates and Departments. New insurance cover requires the identification of an appropriate budget by the appropriate Chief Officer.
- D2.3 The Director of Finance will be responsible for negotiating all self-insured claims in conjunction, as and when necessary, with the Director of Legal & HR, other legal advisers, loss adjusters and loss assessors.
- D2.4 The Director of Finance will be responsible for co-ordinating with outside insurers all claims covered by external insurance.
- D2.5 Chief Officers or their nominated representatives will notify the Director of Finance in writing immediately upon the occurrence of any event that, to their knowledge, may give rise to an insurance claim either by the Council or against the Council.



**D3 Payments to Employees and Members**

D3.1 The Director of Finance has prime responsibility for all payments of salaries and wages to all employees, including payments for overtime, and for payment of allowances to Members. The Director of Finance is responsible for the framework of control.

**D4 Pension Fund**

D4.1 The Director of Finance will have the authority to manage any elements of the Council's Pension Fund retained in-house.

**D5 Authorisation and Payment of Invoices**

D5.1 The Director of Finance will have the authority to determine payment arrangements.

**D6 Procurement**

D6.1 The Director of Finance will have the authority to determine the arrangements for:

- a. the ordering and processing of goods, works and services;
- b. the Council's stores.

**D7 Banking Arrangements**

D7.1 The Director of Finance or his/her duly authorised nominees (and they alone) will have the authority to:

- a. make arrangements with the Council's appointed bankers concerning the operation of the Council's bank accounts.

**D8 Leasing Arrangements**

D8.1 The Director of Finance or his/her duly authorised nominees (and they alone) will have the authority to:

- a. negotiate and arrange the leasing of equipment, vehicles, goods and other assets to meet the Council's requirements and to sign all leasing agreements and related documents.

**D9 Taxation**

D9.1 Relevant Chief Officers are responsible, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority. Relevant Chief Officers are responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by the due date as appropriate.

**D10 Local Management of Schools**

D10.1 These Financial Regulations do not apply to schools and other institutions with delegated budgets under Local Management arrangements, the financial arrangements for which are contained in the Scheme for Financing of Maintained Schools and the Accounting Procedures Manual issued for that purpose.

**D11 Trusts and Charities**

D11.1 The Director of Finance will have the authority, and be responsible, for the financial arrangements relating to the holding of funds on behalf of any Trust or Charity by the Council.

**D12 Financial Procedures**

D12.1 In order to enable Chief Officers, the Director of Finance and all other employees to carry out their duties and responsibilities referred to in these Financial Regulations, the Director of Finance will have the authority to issue, update and amend such detailed Financial Procedures as the Director of Finance considers appropriate in respect of any part of the financial affairs of the Council.

D12.2 Chief Officers will ensure that the Financial Procedures issued by the Director of Finance are applied and followed by all of their employees at all times. Should a Chief Officer wish to operate any procedure that differs from Financial Procedures, prior authorisation to the proposed procedure must be obtained in writing from the Director of Finance.

D12.3 The Financial Procedures issued by the Director of Finance are an integral part of the Council's Financial Regulations and Corporate Governance arrangements.

**D13.1 Trading Accounts/Business Units**

D13.1 The Director of Finance is responsible for advising on the establishment and operation of trading accounts and business units.

## **Section E: External Arrangements**

### **E1 Partnerships**

- E1.1 The Leader of the Council is responsible for approving delegations, including the formulation and management of partnership arrangements and frameworks. The Leader of the Council has accountability for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E1.2 The Leader of the Council can delegate functions - including those relating to partnerships – to officers. These are set out in the scheme of delegation that forms part of the authority’s constitution. Where functions are delegated, the Leader of the Council remains accountable for them to the full Council.
- E1.3 The Chief Executive represents the authority on partnerships and external bodies in accordance with the scheme of delegation.
- E1.4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial and operational administration in partnerships that apply throughout the authority.
- E1.5 The relevant Chief Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. The relevant Chief Officer must also consider the overall corporate governance arrangements including risk management and legal issues when entering into partnership arrangements. The relevant Chief Officer must ensure that the risks have been fully appraised before the Council enters into partnership arrangements, and that systems are in place to monitor and review those arrangements.
- E1.6 Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to the establishment of partnerships.
- E1.7 The Cabinet is responsible for approving the establishment of partnership arrangements including contractual arrangements for any work to be undertaken through partnership arrangements.

### **E2 External Funding**

- E2.1 The relevant Chief Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

F Contracts Standing Orders

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## Glossary of Terms

In these Contract Standing Orders:

- Approved List –** means a list of suppliers whose basic credentials have been checked. This would normally cover financial stability, compliance with any laws or licences needed to operate, adequate insurance, health and safety policies and the like.
- Best Value -** means the Council's duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Set out in section 3 of the Local Government Act 1999.
- Most Advantageous Tender –** means award criteria based on consideration of price, quality and wider benefits e.g. social value to the Royal Borough
- National Law -** means the Public Contract Regulations 2015 (SI 2015/102) and all other legislation and regulatory requirements in force from time to time which apply to public procurement.
- National Threshold –** means the value in pounds sterling above which the Public Contracts Regulations 2015 apply to a proposed public contract.
- Procurement Forward Plan –** means a list of annual projects or contracts identified for future procurement exercises.
- Scheme of Management –** means a plan providing the director's delegation of authority; showing the names and posts of Council officers, who may seek quotations and tenders, enter into Contracts, place orders and authorise payments on their behalf



## General

### Introduction

- 1.1 These Standing Orders are part of the Council's Constitution and govern all contracts for the supply of services, goods or materials or for the execution of works entered into by the Council.
- 1.2 These Standing Orders apply to all Contracts except for the following types of Contracts:
  - Grants that the Council is applying for or issuing.
  - Contracts of employment which make an individual a direct employee of the Council;
  - Agreements directly associated with the acquisition, disposal, or transfer of assets or land (to which the Financial Regulations shall apply).

### 1. Purpose and Principles

- 1.1 These Standing Orders are designed to ensure:
  - best value for the Council
  - non-discrimination and equal treatment
  - transparency and accountability
  - propriety
  - compliance with national (i.e. English) law
  - furtherance of the Council's corporate policies (including social value) and procurement strategy.
- 1.2 The Head of Strategic Procurement provides guidance on the matters to be taken into account as part of any procurement process. These Standing Orders regulate the process when a decision has been made to procure externally.

### 2. Compliance

- 2.1 Every contract made by or on behalf of the Council must comply with National Law, these Standing Orders and the Council's Financial Regulations.

## 2.2 Every person who lets, manages or supervises a contract will:

- comply with National Law, these Standing Orders and the Council's Financial Regulations;
- comply with the Council's best value duty (i.e. make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.)
- consider overall value, including economic, environmental and social value, when reviewing service provision. As a concept, social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, above and beyond the benefit of merely the goods and services themselves;
- seek to promote all relevant and current corporate policies;
- act in accordance with the highest standards of propriety and proper practice; and
- ensure that adequate records are kept.

2.3 Where there is a conflict between any provision of these Standing Orders and any other part of the Constitution, there shall be a presumption that the more recently amended, inserted or updated part shall prevail.

2.4 Any reference in these Standing Orders to the making of any decision or carrying out any procedure as part of the procurement shall be interpreted in a manner consistent with the requirement to comply with relevant national rules where the contract is over the National Threshold.

## Delegation to Chief Officers

### 3. Delegation

3.1 Chief Officers may accept quotations and tenders and enter into contracts as set out in these Standing Orders, subject to the provisions of:

Standing Order 5	annual plan and list of contracts
Standing Order 6	key decisions
Standing Order 9.4, 20 and 21	negotiating tenders
Standing Order 28	accepting tenders

3.2 Each Chief Officer will maintain a Scheme of Management, showing the names and posts of Council officers who may seek quotations and tenders,

enter into Contracts, place orders and authorise payments on their behalf. The scheme will set out the maximum contract value allocated to each member of staff for these purposes. The scheme shall not include the granting of waivers under Standing Order 7.

- 3.3 Each Chief Officer will send their Scheme of Management to the Director of Finance before the start of each financial year and within 7 days of making any changes to the Scheme.
- 3.4 Officers must declare to their Chief Officer and the Director of Legal & HR any personal interest in a matter they are dealing with, including one which may impinge on their impartiality to apply these Standing Orders. It is a requirement that all Council officers and external advisors complete a Declaration of Interest in prescribed form prior to any involvement in any drafting of tender documents or any involvement in evaluation of applicants or tenderers. In the event that a conflict of interest materialises during the procurement process, officers must additionally notify their Chief Officer and the Director of Legal & HR, in writing, as soon as is reasonably practicable.

#### **4. Annual Plan and list of contracts**

- 4.1 As part of the annual budget setting process, each Chief Officer will provide the Director of Finance with a Procurement Forward Plan, which will include the planned procurement activity for the coming year. The Director of Finance will collate the information into an Annual Procurement Forward Plan.

#### **5. Key decisions**

- 5.1 Chief Officers must comply with the rules relating to Key Decisions in the Constitution.
- 5.2 The Key Decision Appendix is found in Part 4 of the Constitution - Rules of Procedure; Section D - Access to Information Procedures

#### Waivers

#### **6. Waivers**

- 6.1 Cabinet, the Leader, or any Chief Officer may only authorise a waiver of compliance with these Standing Orders in accordance with this Standing Order 7.

- 6.2 No waiver may be authorised to Standing Orders 2 and 3 or compliance with National Law.
- 6.3 Only Cabinet may authorise a waiver of Standing Orders 4, 5, 6 and 28.
- 6.4 All reports seeking a waiver must include the comments of the Director of Finance, Director of Legal & HR and Head of Strategic Procurement. If the comments recommend that a waiver should not be made, a waiver may only be authorised by Cabinet.
- 6.5 Chief Officers must keep a register of waivers and the reasons they were granted, and must summarise these in a report every 6 months to Cabinet and to Overview and Scrutiny Committee.

### **Pre-contract requirements**

## **7. Contract value and evaluation criteria**

7.1 Before starting any procurement, the Chief Officer will:

- estimate and record the value of a proposed contract. The value of Contracts which are subject to these Standing Order is calculated net of VAT and over the total duration of the Contract, including any pilot phases or stages of delivery. The Head of Strategic Procurement will issue guidance which explains how to estimate the value of separate or renewable contracts;
- during the annual procurement forward planning exercise obtain confirmation from the Director of Finance that the estimated value of the contract is within the approved ~~in the~~ budget prior to commencement of a tender exercise. Where the estimated value of a new procurement exercise is not included in the procurement forward plan, complete a Procurement Initiation Proposal Form (PIP Form) for contracts valued at - £100,000 and over in consultation with Director of Finance and Head of Strategic Procurement before the commencement of the tendering exercise
- produce a Business Case report if the value of the contract is estimated to be £500,000 and over for a services or supplies contract and £1m and over if it is a works contract. The Business Case shall be produced in consultation with Director of Finance and Head of Strategic

Procurement and submitted to the Corporate Procurement Board for approval. In the case of an urgency, the Business Case can be approved by the Director of Finance.

- ensure the expenditure has been included in approved estimates or in capital or revenue accounts, or has been otherwise approved by the Council.

7.2 Before starting any procurement which requires competition, the Chief Officer will determine whether the contract will be awarded to the tender which offers the most advantageous tender. In addition, the Chief Officer will determine the outcomes that are required from the procurement in terms of:

- what the contract is to deliver
- the timescales in which outcomes are to be delivered
- how outcomes will support the Corporate Plan
- how the supplier's/contractor's performance will be monitored
- the social value and community benefit that could be delivered

7.3 Where the contract will be awarded to the most advantageous tender, the Chief Officer will determine the evaluation criteria.

## **8. Consultation**

8.1 Before purchasing services or supplies which are also provided in house, the Chief Officer will consult the relevant Head of Service and the Head of Strategic Procurement to explore the opportunity of using the existing contract and ensure the Council obtains Best Value.

9.3 Before engaging consultants for training or development purposes, the Chief Officer will consult the Head of Human Resources.

9.4 Before negotiating tenders or starting a competitive dialogue in the circumstances set out in Standing Order 20 & 21 respectively, the Chief Officer will consult the Director of Finance, Head of Strategic Procurement and Director of Legal & HR who will determine how negotiations or dialogue should be carried out so as to achieve the purposes set out in Standing Order 2.

9.5 The Chief Officer will record the outcome of each consultation.

## **9. Pre-tender/ market testing/quotation enquiries**

9.1 Chief Officers may make enquiries of firms before tenders or quotations are invited for all proposed contracts of £25,000 and over in value:

- to establish whether goods, works or services the Royal Borough wishes to purchase are available, and within what price range;
- to establish whether particular firms wish to be invited to tender or quote.

9.2 In making enquiries:

- no information may be disclosed to one firm which is not disclosed to all those which may be invited to tender or quote;
- no firm may be led to believe that the information they offer will necessarily lead to them being invited to tender or quote, or awarded the contract;
- the Chief Officer will keep a written record, including notes of any telephone calls and meetings and the responses received.

## **Competition requirements**

### **10. Requirement to consider Social Value**

10.1 The Public Services (Social Value) Act 2012 requires public bodies in England and partly in Wales, to consider the economic, environmental and social benefits of their approaches to commissioning and procurement before the process starts. The Act requires authorities to make the following considerations at the pre-procurement stage: a) How, what is proposed to be procured, might improve the economic, social and environmental well-being of the 'relevant area'; b) How in conducting a procurement process, the Authority might act with a view to securing that improvement and whether to undertake a consultation on these matters.

10.2 The Chief Officer will use this Act including any updates to it, the Council's Social Value Policy and Social Value Framework to consider social value outcomes which may improve the social, economic or environmental well-being of a relevant area, relevant to what is proposed to be procured. The Chief Officer must only consider those matters to the extent to which it is proportionate and the outcomes of the procurement aligns with the subject matter of the contract.

10.3 The Chief Officer shall keep records of all the Social Value outcomes delivered by the Supplier on each contract and summarise them on a report every 6 months to the Director of Finance.

## **11. Contracts not requiring competition**

11.1 Competition is not required:

- where a waiver from compliance with Standing Order 13 is granted under Standing Order 7 on one of the following grounds:
  - where a tendering exercise produced no tenders or inappropriate tenders; or
  - where tendering was discontinued because of irregular tenders.
  - where works supplies or services can be supplied only by a particular economic operator.
  - where the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance,
  - where competition is absent for technical reasons,
  - where the protection of exclusive rights, including intellectual property rights is required.
  - where because of extreme urgency caused by events unforeseeable by the Royal Borough, the time limits for the open, restricted or competitive negotiation procedures cannot be complied with.
  - for contracts for research and development.
  - where additional deliveries by the original supplier are required.
  - for public services contracts following a design contest.
- for contracts valued below National Light Touch threshold with registered providers of social services and health services for individual clients or groups of clients;
- for contracts valued below National Light Touch threshold with registered providers of education for individual pupils with special educational needs;
- to engage Counsel (Barristers).

Provided that the Chief Officer has the agreement of the Director of Finance, Director of Legal & HR and Head of Strategic Procurement.

## **13 Contracts valued below the relevant National Threshold**

13.1 Where the estimated value of a contract is £500,000 or more for services or supplies, and £1m if it is a works contract, the Chief Officer will be required to produce a completed business case using the Royal Borough's corporate

template for reports before commencing any procurement. This applies even if the proposed contract does not require competition in accordance with Standing Order 12.

13.2 Subject to Standing Order 13.1, Chief Officers may enter into contracts where the estimated value is:

- less than £15,000, by seeking one quotation from local firms in accordance with Standing Order 13.3.
- £15,000 to £25,000 after seeking at least 2 written quotations. This should include two local firms in accordance with Standing Order 13.3
- £25,000 or more but less than the relevant National threshold for a services or supplies contract, and up to £500,000 for works contract, after seeking at least 4 written quotations. Two of the firms to be invited to quote should be from local firms in accordance with Standing Order 13.3.

The table below provides a summary of the process

Value	Minimum number of firms required	Places to source suppliers from
less than £15,000 for services, suppliers and works contracts	One firm	Invite from local firms in accordance with CSO 13.3
£15,000 to £25,000 for services, suppliers and works contracts	Invite at least 2 firms	Invite two from local firms in accordance with CSO 13.3.
£25,000 to below National threshold for services/supplies and up to £500,000 for works contracts	Invite at least 4 firms	Invite at least two from local firms in accordance with CSO 13.3

13.3 The Chief Officer shall use the list of local firms which are onboarded on the Royal Borough's e-procurement portal to seek quotes for the provisions of the works, supplies and services sought. Where there is no appropriate local firms available then the Chief Officer will seek quotations from firms which



are competent and financially stable from neighbouring boroughs first before consider firms from other places.

- 13.4 For ensuring transparency, fairness and accountability, contracts valued at £25,000 or more, Chief Officers will ensure that all procurements use the Royal Borough's e-tendering system as prescribed by the Director of Finance and in accordance with procedures issued by the Director of Finance. Any other tendering method may be used only with prior authorisation from the Director of Finance as a request for a waiver in accordance with Standing Order 7. Where e-tendering is used, there is no requirement for hard copies of quotations to be returned. All documentation will be electronic and will be securely accessed and retained on the Royal Borough's e-procurement website.

#### **14. Contracts valued above the relevant National Threshold**

- 14.1 Where the estimated value of a contract is above the relevant National Threshold, Chief Officers will invite tenders in accordance with the National Law and will record their reasons for deciding which procedure to use.
- 14.2 The Chief Officer in consultation with the Head of Strategic Procurement shall select and follow through the national rules outlined for each procedure for their procurement namely:
- a) Open procedure
  - b) Restricted procedure
  - c) Competitive procedure without negotiation
  - d) Competitive Dialogue
  - e) Innovative Partnership
  - f) Negotiation without prior publication
- 14.3 Further guidance on each of the procedure will be provided by the Head of Strategic Procurement.

Tendering Approaches/Commercial procurement tools

#### **15. Tendering from the Approved List**

- 15.1 This Standing Order applies where the contract is above the National Threshold for Services and Supplies but below the thresholds for Works contract, or where the Chief Officer considers that using the Approved List is appropriate.

- 15.2 Where there is an Approved List e.g. constructionline, Chief Officers will invite at least four tenders from firms within the appropriate category. If there are fewer than 4 firms, Chief Officers will invite tenders from all of them.
- 15.3 Chief Officers will invite firms to tender in rotation. However, 1(one) firm may be nominated where it is the existing contractor or has carried out similar work for the Royal Borough.
- 15.4 Chief Officers will record how they compiled the tender invitation list and, if fewer than 4 firms are invited to tender, the reasons for this.
- 16. Framework agreement and call off contracts.**
- 16.1 Before starting a procurement exercise to conclude a framework agreement, the Chief Officer will consult with the Head of Strategic Procurement to determine if there are other frameworks agreements or existing RBG call off contracts which can be used to meet their requirement.
- 16.2 When setting up a new Framework Agreement, the Chief Officer shall determine the estimated value of the Framework Agreement in accordance with CSO 8.1
- 16.2 If the Chief Officer wish to consider permitting other contracting authorities to use the Framework Agreement, they will need to ensure the Tender Documents and Framework Agreement are structured to enable this.
- 16.3 The tendering process for concluding a framework agreement will follow either the open or restricted procedure as outlined in CSO 18 or 19 respectively and all related principles of concluding a framework agreement as outlined in the Public Contracts Regulation 2015.
- 16.4 The tender documents should clearly set out the process to call off from the framework agreement i.e. whether this will be through a direct award, mini competition or both.

#### Calling off from an external framework agreement

- 16.5 Before starting the process to call off from an external concluded framework agreement, the Chief Officer will consult with the Head of Strategic Procurement. They will advise on whether the proposed framework agreement is compliant, or an alternative framework agreement approved by the Royal Borough already exist and whether it delivers best value.

16.6 The Chief Officer will ensure that the Framework Agreement has been procured in accordance with the Public Contract Regulations 2015, and will check that required criteria for the Royal Borough to use the Framework Agreement are satisfied.

16.7 The Chief Officer will ensure that the call off process is compliant with the principles set out in the Public Contracts Regulations 2015 and the guidance provided by the organisation which owns the Framework Agreement.

## 17 **Dynamic Purchasing System**

17.1 Where a Dynamic Purchasing System is considered to be the most suitable solution for procuring the works, goods and services, the Chief Officer will seek guidance on how to set it up, manage the rounds and call offs, from the Head of Strategic Procurement.

17.2 The process for setting up and awarding contracts from a Dynamic Purchasing System must follow rules set out in the Public Contracts Regulation 2015.

## 18. **Open tendering**

18.1 Where Standing Order 15 does not apply, then unless the Chief Officer considers that using this procedure is inappropriate, tenders will be invited in accordance with the Open tendering procedure as outlined in the Public Contracts Regulation 2015.

18.2 For works, goods and services contracts, the Chief Officer may publish a prior information notice in Find a Tender Services (FTS) as soon as possible after deciding to proceed with the tendering exercise.

18.3 The Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will give details of the contract, say how tender documents may be obtained or inspected and state the last date for receipt of tenders. The Chief Officer will place a notice in FTS at the same time.

18.4 The Chief Officer will send contract documents to firms via the e-procurement portal within 6 days of request.

18.5 The last date for receipt of tenders will be at least 35 days from the date of the notice, or at least 15 days where a prior information notice was published.

## **19. Restricted tendering**

19.1 Where Standing Orders 15 or 18 do not apply, then unless the Chief Officer considers that using this procedure is inappropriate, tenders will be invited in accordance with the Restricted procedure as outlined in the Public Contract Regulations 2015 as follows.

19.2 For works, goods and services contracts, the Chief Officer may publish a prior information notice in FTS as soon as possible after approving the requirement.

19.3 For all contracts, the Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will invite expressions of interest and state the last date for receipt of expressions of interest. The Chief Officer will place a notice in FTS at the same time.

19.4 The last date for receipt of expressions of interest will be at least 30 days from the date of the notice, or at least 15 days in case of urgency.

19.5 The Chief Officer will select at least 5 firms to tender. If fewer than 5 firms express an interest, the Chief Officer will invite tenders from all of them.

19.6 Firms will be given at least 30 days to return tenders, or at least 10 days in case of urgency. These periods will be extended if necessary:

- to allow for extra time to be given to firms to inspect the premises on which the works or services are to be carried out, or
- to inspect documents relating to the contract documents. Reasonable requests for further information relating to the contract documents will be granted, provided the request enables the Council to supply the information not less than 6 days (or 4 days in case of urgency) before the date specified for receipt of tenders.

19.7 The Chief Officer will record how he/she compiled the tender invitation list and, if fewer than 5 firms are invited to tender, the reasons for this.

## **20. Competitive procedure with negotiation**

- 20.1 Chief Officers may use the competitive procedure with negotiation to award a contract:
- where tendering under Standing Orders 15, 18 or 19 is inappropriate;
  - where at the beginning of the procurement exercise, only the minimum requirement to be met by all tenders can be defined and negotiation will be required to award of contract
- 20.2 Before negotiating tenders, the Chief Officer will consult the Director of Finance, Director of Legal & HR and Head of Strategic Procurement who will determine how the negotiations should be carried out so as to achieve the purposes set out in Standing Order 2.
- 20.3 The Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will invite requests to be selected to negotiate and state the last date for receipt of requests. The Chief Officer will place a notice in FTS at the same time.
- 20.4 The last date for receipt of requests to be selected to negotiate will be at least 30 days from the date of the notice, or at least 15 days in case of urgency.
- 20.5 The Chief Officer will select at least 3 firms to tender. If fewer than 3 firms express an interest, the Chief Officer will invite tenders from all of them.
- 20.6 The Chief Officer will record how they compiled the tender invitation list and, if fewer than 3 firms are invited to tender, the reasons for this.
- 20.7 The terms of the contract must remain substantially unaltered. All tenderers will be invited to amend their tenders, in writing, in such matters as the Chief Officer specifies. All negotiations will be conducted by at least two officers, one of whom is not involved in the contract award. The Chief Officer will keep a written record of all negotiations, including notes of all meetings and the names of all individuals present.

## **21. Competitive dialogue**

- 21.1 Chief Officers may use competitive dialogue procedure to award a contract:
- where the nature of the procurement or the risk does not permit prior overall pricing;

- where the nature of the procurement is such that a precise specification cannot be drawn up to permit tendering under Standing Orders 15, 18 or 19;
- where the rules of a design contest require the contract to be awarded to one of the successful candidates, provided all successful candidates are invited to negotiate.

- 21.2 Before starting a competitive dialogue tender process, the Chief Officer will consult the Director of Finance, Director of Legal & HR and Head of Strategic Procurement who will determine the conduct of the competitive dialogue process to be followed so as to achieve the purposes set out in Standing Order 2.
- 21.3 The Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will invite expressions of interest and state the last date for receipt of expressions of interest. The Chief Officer will place a notice in FTS at the same time.
- 21.4 The last date for receipt of expressions of interest will be at least 30 days from the date of the notice.
- 21.5 The Chief Officer will select at least 3 firms to participate in the dialogue. If fewer than 3 firms express an interest, the Chief Officer will invite all of them.
- 21.6 The Chief Officers shall open a dialogue with firms selected from the assessment of the information provided in response to the qualitative selection stage and invite the successful firms to participate in the dialogue.
- 21.7 Following the conclusion of the dialogue, firms shall be asked to submit their final tenders on the basis of the solution or solutions presented and specified during the dialogue.
- 21.8 The Chief Officer will record how he/she compiled the tender invitation list and, if fewer than 3 firms are invited to tender, the reasons for this.

## **22 Innovation partnership**

- 22.1 Where the aim of the procurement exercise is to develop an innovative product, service or works, then unless the Chief Officer considers that using

this procedure is inappropriate, tenders will be invited in accordance with the Innovative Partnership procedure as outlined in the Public Contracts Regulations 2015.

- 22.2 Before using the Innovative Partnership procedure, the Chief Officer shall ensure that product, service or works being procured, cannot be met by purchasing products, services or works already available on the market.
- 22.3 The Chief Officer will consult the Director of Finance, Director of Legal & HR and Head of Strategic Procurement who will determine the conduct of the negotiation during the Innovative Partnership process to be followed so as to achieve the purposes set out in Standing Order 2.
- 22.4 The Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will invite expressions of interest and state the last date for receipt of expressions of interest. The Chief Officer will place a notice in FTS at the same time.
- 22.5 The last date for receipt of expressions of interest will be at least 30 days from the date of the notice.
- 22.6 The Chief Officer will select at least 3 firms to tender. If fewer than 3 firms express an interest, the Chief Officer will invite tenders from all of them.

### **23. Negotiated procedure without prior publication (Direct Award)**

23.1 Chief Officers may negotiate and award tenders:

- where tendering under Standing Orders 15, 18 or 19 produced no tenders or inappropriate tenders; or
- where tendering under Standing Orders 15, 18 or 19 was discontinued because of irregular tenders.
- where works supplies or services can be supplied only by a particular economic operator.
- where the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance.
- where competition is absent for technical reasons.
- where the protection of exclusive rights, including intellectual property rights is required.

- where because of extreme urgency caused by events unforeseeable by the Council, the time limits for the open, restricted or competitive negotiation procedures cannot be complied with.
- For contracts for research and development.
- where additional deliveries by the original supplier are required.
- for public services contracts following a design contest.
- For the repetition of similar works or services awarded to the economic operator, to which the Council awarded an original contract within the past three years and this was disclosed at the outset.

23.2 The Chief Officer will consult the Director of Finance, Director of Legal & HR and Head of Strategic Procurement who will determine the conduct of the negotiation process to be followed so as to achieve the purposes set out in Standing Order 2 and 3.

23.3 Contracts awarded under this Standing Order must not exceed three (3) years and a notice of the award published on FTS.

## **24. Selecting tenderers**

24.1 A firm may not be invited to tender or negotiate if:

- it is bankrupt, or is being wound up, or is having its affairs administered by a court, or has entered into an arrangement with creditors, or has suspended its business activities, or is subject to court proceedings regarding any of these matters;
- it or any of its current directors have been convicted of an offence concerning professional conduct, or have been guilty of grave professional misconduct;
- it has not fulfilled obligations relating to the payment of taxes or social security contributions;
- it has seriously misrepresented information supplied to the Council;
- it is not registered in the professional or trade register of the state in which it is established;
- it may otherwise be excluded from tendering in accordance with National Law.

24.2 Firms will be invited to tender by applying criteria of financial and economic standing and of technical ability. Firms may not be invited to tender on the basis of non-commercial considerations, except for social value consideration or where permissible.



- 24.3 The Chief Officer will record which firms were invited to tender, negotiate, or dialogue, the reasons they were invited and the reasons unsuccessful firms were not invited.
- 24.4 The Chief Officer will comply with the relevant National provisions concerning the notification of unsuccessful firms.

## **25. Inviting tenders**

- 25.1 Where the estimated value of a contracts is valued at £25,000 or more, Chief Officers will ensure that all procurements use the Royal Borough's e-tendering system as prescribed by the Director of Finance and in accordance with procedures issued by the Director of Finance. Any other tendering method may be used only with prior authorisation from the Director of Finance as a request for a waiver in accordance with Standing Order 7. Where e-tendering is used, there is no requirement for hard copies of tenders to be returned. All tender documentation will be electronic and will be securely accessed and retained on the Royal Borough's e-procurement website.
- 25.2 Where the contract will be awarded to the Most Advantageous Tender, the Chief Officer will state the evaluation criteria in the tender documents.
- 25.3 Unless a waiver has been granted in accordance with Standing Order 7, all tenders will be submitted electronically. Where such a waiver is in place, all tenders will be submitted on a form approved by the Director of Finance, and addressed to the appropriate Chief Officer.
- 25.4 Where the e-tendering system is not used, the Chief Officer will endorse all tender envelopes with the time and date of receipt, and will keep them secure until the time specified for tender opening. Any tender received after the closing date and time for tenders will not be considered for evaluation and will be returned promptly to the tenderer. This will not apply if no eligible tenders have been opened and the Chief Officer is satisfied that there is evidence of posting or hand delivery in time for receipt by the closing date and time in the normal course of events. A late tender may be opened to ascertain the name of the tenderer but no details of the tender may be disclosed.
- 25.6 No-one may communicate with any firm proposing to tender once the invitation to tender has been posted , or collected by the tenderer. No information relating to that tender process may be disclosed to anyone not involved directly in arranging the contract, except where it is necessary:

- for an officer and/or tenderer to carry out an inspection of works, in which case all tenderers must be offered an equal opportunity to carry out an inspection; or
- to inform tenderers of a change in the tendering arrangements, including the supply of additional or changed information, in which case all tenderers will be sent the same information at the same time.

## **26. Opening tenders**

26.1 Except where e-tendering procedures apply, all tenders will be opened at the same time and place in the presence of the Head of Strategic Procurement and one other officer designated by him or her.

26.2 The Chief Officer will record the following details of each tender in a register of tenders:

- the closing date and time for the receipt of tenders;
- the date and time each tender was received;
- the name of each tenderer and the amount of each tender;
- the date and time the tenders were opened

26.3 All persons present at the tender opening will initial each tender, and sign the register as evidence that they were present.

26.4 Where e-tendering applies, the matters set out in this Standing Order 26 will be dealt with by the e-tendering procedures and recorded electronically

## **27. Evaluating tenders**

27.1 Where a contract is to be awarded to the Most Advantageous Tender, the criteria will be stated in the tender documents, and tenders will be evaluated in accordance with them.

27.2 Where the lowest tender is valued £500,000 or more, or the contract is considered to be critical, the Chief Officer will:

- involve at least one senior officer nominated by the Director of Finance; or
- in consultation with Director Finance obtain an independent financial appraisal or consultant;

The information will be considered by those involved in evaluating the tenders and kept by the Chief Officer.

27.3 Tenders may be amended to correct genuine arithmetic errors. Otherwise, where errors affect the tender figure in an otherwise successful tender, the tenderer will be given details of the errors and an opportunity of confirming or withdrawing its tender.

27.4 The Chief Officer may in writing authorise contact with a tenderer in order to clarify any aspect of its tender not falling within Standing Order 27.3, providing such contact does not distort competition.

27.5 The Director of Finance, Director of Legal & HR and Head of Strategic Procurement will provide advice based on National Law in respect of how to process abnormally low tenders and Chief Officers will comply with that advice.

## 28. Accepting tenders

28.1 No tender may be accepted unless the expenditure has been included in approved estimates or on capital or revenue accounts, or has been otherwise approved by, or on behalf, of the Council.

28.2 Before awarding the contract or accepting a tender, a formal written report using the Royal Borough's corporate template for reports shall be approved by the relevant person authorised to accept tenders. Such report must have comments from Legal, Finance and Procurement.

28.3 Contracts may be awarded by:

- the Chief Officer if the tender is within budget and below £500,000
- the Chief Officer if the tender is within budget and over £500,000 provided they are the lowest price, or within 10% of the lowest if it is Most Advantageous Tender.

The table below provides a summary:

Functions	Leader (also as lead member)	Chief Officer
Accept tenders within budget and below £500,000		×

Accept tenders within budget and £500,000 and over, provided they are the lowest price, or within 10% of the lowest if it the Most Advantageous Tender		×
Accept all other tenders	× <sup>8</sup>	

- 28.4 Following the acceptance of a tender, the Chief Officer will disclose the name of the successful tenderer to an unsuccessful tenderer, provide feedback on their submission and allow the mandatory standstill to expire before entering into a contract with the winning supplier.
- 28.4 Chief Officers will keep a register of all contracts awarded by them and provide the relevant information to the Head of Strategic Procurement for the contract to be recorded on the corporate contracts register.
- 28.5 For all contracts value above the National Threshold, Chief Officers will send a Contract Award Notice to FTS within 30 days of the award.

## Contracts

### 29. Contract execution

- 29.1 Every contract where the value exceeds £100,000 will either be made under seal, or will be signed by two officers nominated by the Director of Legal & HR.
- 29.2 Every other contract will be in writing and be signed by a Chief Officer or a person whom a Chief Officer has authorised to sign on their behalf.

### 30. Contract conditions

- 30.1 Every contract where the value exceeds £100,000 will include terms and conditions of contract approved by the Director of Legal & HR.
- 30.2 No tender or quotation shall be invited unless it includes relevant terms and conditions of contract previously approved by the Director of Legal & HR.

### 31. Contract specifications

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<sup>8</sup> In consultation with the Lead Member

- 31.1 Chief Officers will ensure contracts specify any appropriate quality, performance, safety and other characteristics describing the requirement.
- 31.2 Technical specifications will be defined by reference to relevant National specifications where they exist.
- 31.3 Specifications will not refer to supplies of a particular make or source unless:
- the contract requirement justifies it, or
  - the contract requirement cannot otherwise be described precisely and intelligibly.

## **32. Contract performance, monitoring and management**

- 32.1 A lead contract officer or contract manager must be identified for each contract. Where no lead contract officer is identified, the lead contract officer will be deemed to be the budget holder of the section from which the contract is funded or where there is no budget holder, the lead contract officer will be the Chief Officer.
- 32.2 Contract Performance will be measured against the following minimum criteria but may be subject to change:
- a. Performance and compliance with specification and contract
  - b. Cost and any value for money requirements
  - c. User satisfaction and risk management
  - d. Equality and fairness
  - e. Supplier Financial Health Check
  - f. Supplier Tax Status Check
  - g. Relevant Due Diligence clarifications including Modern Slavery
- 32.3 The Chief Officer shall keep records of performance of contracts value at £100,000 and above, or 'critical' contracts, and produce a summary report 6 months or more frequently if appropriate to the Director of Finance.
- 32.4 The Chief Officer will raise incidents of poor performance with the contractor in writing, or at a meeting where notes are made and sent to the contractor. In cases of particularly poor performance, or persistent poor performance, the Chief Officer will consider whether to take formal action under the default provisions of the contract and recommend suspension or exclusion if the contractor is on an Approved List.

32.5 Chief Officers will comply with any guidance issued by the Director of Finance and Head of Strategic Procurement relating to performance management of contractors.

### **33. Contract variation during the life of the contract**

33.1 A formal written report approved by the Chief Officer shall be required where any variation decision would:

- extend the contract period by 50% or by more than four calendar months, whichever is the lesser, for service or supplies contracts. For works contracts the contractual process is used to extend the contract for a period of no more than 12 calendar months, and the Chief Officer shall keep a record of these matters; or
- add more than 10% to the estimated value of service or supplies contracts which are above the National Threshold or add 15% to work contracts which are above £1m. The Chief Officer shall keep a record of all changes; or
- increase it from below the relevant National Threshold to above the relevant National Threshold; or
- mean the works, services or goods to be added to or deleted from the contract are substantially different in scope.

33.2 The value of a variation is calculated by taking the aggregate value of all variations made to the contract and/or in accordance with the applicable National rules where the contract is over the relevant National Threshold.

33.3 No variation may be made until funding has been identified in accordance with the Council's Financial Regulations.

33.4 Standing Order 33.1 does not apply in cases of urgency, where the Chief Officer may approve a variation.

33.5 Comments of the Director of Finance and Director of Legal & HR and Head of Strategic Procurement shall be required on any report recommending a variation to a contract which has a value, whether before or after the proposed variation, that is above the relevant National Threshold.

33.6 Chief Officers will keep a record of all variations and summarise them in a report every 6 months to Cabinet and to Overview and Scrutiny Committee.

**34. Nominating products/contractors/suppliers**

34.1 These Standing Orders will be used where a sub-contractor or supplier is to be nominated to a main contractor. Sub-contractors or suppliers will send with their tender an undertaking to work for the main contractor and to indemnify them in respect of the sub-contracted works or supplies.

## G Officer Employment Procedures

### G.1. **Appointment and dismissal of the Chief Executive, Chief Officers and certain Deputy Chief Officers**

- (a) Subject to paragraph (d), the Appointments Panel will appoint, may take disciplinary action against and may dismiss the Chief Executive and all Chief Officers, and such Deputy Chief Officers as the Chief Executive shall from time to time designate for Member appointment. The Appointments Panel will include at least one member of the Cabinet.
- (b) Full Council must approve the appointment of the Head of Paid Service before an offer of employment is given. Full Council must approve the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer before notice of dismissal is given.
- (c) An offer of employment or notice of dismissal of the Head of Paid Service or a Chief Officer or Deputy Chief Officer may not be given until:
  - (i) the Chair of the Appointments Panel (or the Chief Officer) has notified the Chief Executive of the name of the person and any other relevant particulars; and
  - (ii) the Chief Executive has forwarded that information to every member of the Cabinet, together with the date by when the Leader may object to the appointment or dismissal; and
  - (iii) either:
    - (1) the Leader has notified the Chair of the Appointments Panel or Chief Officer by that date that no member of the Cabinet has any objection to the appointment or dismissal; or
    - (2) the Chief Executive has notified the Chair of the Appointments Panel or Chief Officer that no objection was received by that date from the Leader; or
    - (3) the Appointments Panel or Chief Officer is satisfied that any objection received from the Leader is not material or not well founded.
- (d) The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer may not be dismissed unless the procedure set out in the following paragraphs is complied with.



- (i) The Council must invite the Independent Person, and at least one other independent person who has been appointed by another authority, to be considered for appointment to a panel.
- (ii) At least 20 working days before the Council meeting which is to consider whether to approve a proposal to dismiss, the Council must appoint to the panel such independent persons who have accepted an invitation in accordance with the following priority order:
  - (a) the Independent Person;
  - (b) an independent person who has been appointed by another authority or authorities.
- (iii) The Council must appoint at least two people to the disciplinary panel.
- (iii) Before voting at the Council meeting which is to consider whether to approve a proposal to dismiss, the Council must take into account, in particular
  - (a) any advice, views or recommendations of the panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
- (e) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person

## **G.2. Appointments and dismissal of all other staff**

- (a) The relevant Chief Officer or his/her nominee will appoint, may take disciplinary action against and may dismiss all Deputy Chief Officers not designated for Member

appointment by the Chief Executive and all other staff.

- H.3 The Chief Executive is authorised to (a) establish, in consultation with the Party Group Leaders, individual Appointment Panels based on the requirements of the post; and (b) appoint, in consultation with the Leader and Party Whips, Members to Appointment Panel.