

CHAPTER 4

Procedural Rules

CHAPTER 4 - PROCEDURAL RULES

PART 4.1 - COUNCIL PROCEDURE RULES

All of these procedure rules apply to meetings of the Council.

Rules 5, 8, 9 and 13-28 apply to meetings of committees and sub-committees.

1. Meetings of the Council

1.1 Types of Council Meeting

There may be three types of Council meeting:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

1.2 Annual Meeting of Council

The Council shall hold an annual meeting in the year of ordinary election of Members not earlier than the eighth day and not later than the twenty first day of the date of retirement of members.

In any one year where there are no elections to the Council, the annual meeting will be held on a date in May to be fixed by the Council.

1.3 No requirement to hold an Annual Meeting of the Council

The requirement to hold an Annual Meeting is to be disregarded and, prior to 7 May 2021, an Annual Meeting of the Council may only take place:

- (a) where called by the Mayor; or
- (b) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of the Council.

1.4 Extraordinary meetings

Those listed below may require the Proper Officer (who for this purpose shall be the Chief Executive) to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution, or
- (b) the Mayor, or

(c) the Monitoring Officer; and, or

(d) Any five Members of the Council if they have signed a requisition specifying the business to be considered at the meeting and presented the requisition to the Mayor and he/she has refused to call a meeting or has failed within seven days of the presentation of the requisition to call a meeting.

1.5 **Council may move to 'In Assembly'**

The Council may go beyond formal meetings, to which these rules of procedure apply and may move to "In Assembly" to which these rules of procedure do not apply.

This will enable members to invite presentations by other bodies and also enable general discussions, workshop events and opportunities to engage with the public, partners in the public and private sectors and other organisations.

2. **Agenda**

2.1 **Agenda for Annual Meeting**

The Annual Meeting will consider the following:

- (a) accept that the Chief Executive or Monitoring Officer will preside over the election of the Mayor and Deputy Mayor if the outgoing Mayor or Deputy Mayor are not present.
- (b) receive any apologies for absence from Members;
- (c) receive any announcements from the Mayor;
- (d) designate a Mayor for the ensuing municipal year (See Appendix B for process of electing a Mayor and Deputy Mayor);
- (e) designate a Deputy Mayor for the ensuing municipal year;
- (f) receive any declarations of interest from Members and Officers;
- (g) Brentwood Borough Council Elections: The Chief Executive will report the results of the elections (election years only);
- (h) Political Groups on the Council: The Chief Executive will report receipt of Notices served on them by Members under the provisions of the Local Government (Committees and Political Groups) Regulations 1990. (Normally only in election years);

- (i) Elect from its members a Leader and Deputy Leader of the Council for the municipal year.
- (j) to receive the Leader's statement under rule 6;
- (k) establish the following and their size and terms of reference;
 - (i) a committee for the purposes of the Licensing Act 2003
 - (ii) such other committees as may be necessary for the proper discharge of the functions of the Council;
- (l) note the allocation of seats on committees and sub-committees to Members of political groups and those seats to be filled by Members who are not in any political group, appoint Members to those allocated committee seats in accordance with the nominations of the political group Leaders, and appoint Members to the remaining committee seats from among those Members who are not in any political group;
- (m) appoint any co-opted Members to the committees, and Independent Persons as appropriate.
- (n) determine to which committees substitute Members may be appointed;
- (o) appoint such Chairs and Vice-Chairs of committees
- (p) approve the Member Allowances Scheme;
- (q) agree the date, time and place of ordinary meetings of the Council for the coming municipal year
- (r) consider any business set out in the notice convening the meeting.

2.2 Agenda for Ordinary meetings of the Council

Following consultation with the Chief Executive, the order of the agenda will be agreed by the Mayor having regard to the following:

- (a) to choose a Member to preside if the Mayor and Deputy Mayor be absent;
- (b) any business expressly required by statute to be transacted by the Council;
- (c) to receive any items of urgent business (to be agreed by the Mayor by reason of special circumstances which shall be specified in the minutes).
- (d) to receive any announcements from the Mayor;
- (e) to approve as a correct record the minutes of the last meeting of the Council;

- (f) to answer questions asked by members of the public pursuant to Rule 11;
- (g) to consider reports of the Audit and Scrutiny Committee;
- (h) to consider reports from the Constitution Working Group
- (i) to receive memorials or petitions (if any)
- (j) for Leader and Chairs of committees to answer questions from Members pursuant to Rule 7.
- (k) to receive and consider reports;
- (l) receive nominations for, and make appointments to, those outside bodies to which the Council is entitled to appoint except where that right of appointment is exercisable only by the Leader;
- (m) deal with any business deferred from the last Council meeting.
- (n) to authorise the sealing of documents so far as the Council's authority is required by statute or this Constitution;
- (o) to consider Notices of Motion in the order in which they have been received.

2.3 When considering the budgetary framework at its February meeting, no other business will be considered by Council other than the budget and related proposals.

2.4 The agenda for any Council meetings shall be published no later than ten working days before the day of the Council meeting.

2.5 Agenda for Extraordinary meetings

Business at extraordinary meetings of the Council shall be restricted to the following:

- (a) to appoint a Member to preside at the meeting if neither the Mayor nor the Deputy Mayor are present and able to preside;
- (b) to receive apologies for absence from Members;
- (c) to receive any declarations of interest from Members and Officers;
- (d) to consider any business set out in the notice convening the meeting;
- (e) to consider any matter which, by reason of special circumstances to be specified in the minutes of the meeting, the Mayor considers should be considered at the meeting as a matter of urgency.

No other business will be transacted.

3. Motions and Amendments

- 3.1 Any one or more Members of the Council may, by notice received by the Monitoring Officer no later than 10.00 am eleven working days before the day of the Council meeting, require the Council to consider a motion about a matter relating to which the Council has powers or duties or which affects the Council's area. A notice of motion may be accompanied by a statement of not more than 200 words setting out the reason for the proposed motion. The motion should state the mover and seconder of the motion on submission.
- 3.2 A notice of motion may be in more than one part and contain more than one recommendation but must all relate to the same subject matter.
- 3.3 The Monitoring Officer may reject a notice of motion if, in their opinion:
 - (a) it does not comply with the requirements of this Rule;
 - (b) the notice of motion is defamatory of an individual, offensive, or otherwise infringes the proper conduct of local government; or
 - (c) the recommendation in the notice of motion would be illegal.
- 3.4 Where the Monitoring Officer rejects a notice of motion, they shall inform the Member who submitted the notice as soon as practicable prior to publication of the agenda and shall not include the rejected notice of motion in the public record or agenda.
- 3.5 The Monitoring Officer shall record all such notices of motion (not including a rejected notice) in the order in which they are received, and such record shall be open to public inspection on request.
- 3.6 The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received, save that:
 - (a) where two or more notices of motion are received from a particular Member for the same meeting, that Member's second notice of motion shall be included after all other Members' first notices of motion, that Member's third notice of motion shall be included after all other Members' second notices of motion, and so on.
 - (b) where they consider that the notice of motion, statement or consideration of the notice of motion is likely to result in the disclosure of confidential or exempt information, in which case they may group such notices of motion

together with other items of business which are, in his/her opinion, likely to involve the exclusion of press and public during their consideration.

- 3.7 The Council shall not debate any motion which would give rise to a significant change to the income of the Council, to its expenditure or to contract terms, unless it has received a report from the Chief Finance Officer or the Monitoring Officer, as appropriate, setting out the legal or financial effect of the motion.
- 3.8 Where a Member submits a notice of motion which would require an accompanying report under Rule 3.7, they shall at the same time provide the Chief Finance Officer and /or the Monitoring Officer with sufficient supporting information to enable them to prepare such an accompanying report.
- 3.9 Where a motion which would require an accompanying report under Rule 3.7 falls to be moved without such accompanying report being made available to all Members of Council, the motion shall stand adjourned without debate to the next available meeting of Council.
- 3.10 The rules of debate at 8.3.4 of this Constitution apply when moving and debating motions on notice.
- 3.11 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Council or committee as the case may be, has decided whether or not the power to exclude the public under section 100 (A) (2) of the Local Government Act 1972 shall be exercised.
- 3.12 A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past six months, may not be moved except in accordance with Rules 8.3.17 and 18 (below) unless upon a recommendation from the Finance, Assets, Investment and Recovery Committee for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.
- 3.13 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved except in accordance with Rules 8.3.17 and 18 (below) unless upon a recommendation from the Finance, Assets, Investment and Recovery Committee for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.

Amendments

- 3.14 Subject to Rule 3.3, notice of an amendment to a recommendation or motion on the agenda for a Council meeting may be given by two members to the Monitoring Officer up to 12 noon on the day of Council. Only motions which can be moved without notice or amendments to recommendations arising from Officers' reports will be accepted without notice.
- 3.15 No amendment shall be considered with regard to the recommendation of the Finance, Assets, Investments and Recovery Committee for the setting of the Council's budget unless notice of the amendment has been given by two members to the Monitoring Officer by 10.00 am **five clear working days** before the day of the meeting. Clear working days exclude the day of the notice and the day of the meeting, so that for example, if the council meeting is held on Wednesday 20th of the month, notice must be received by 10am Tuesday the 12th of the month.

4. Quorum

- 4.1 The quorum of a meeting of the Council will be one quarter of the whole number of members i.e. no less than 10 members.
- 4.2 If during any meeting of the Council the Mayor counts the numbers of members present and declares that there is not a quorum present then the meeting will adjourn. Remaining business shall be adjourned to the next ordinary meeting of the Council or to such other time and date as may be fixed by the Mayor.

5. Signing the Minutes

- 5.1 The Mayor will sign the minutes of the proceedings at the next suitable meeting.
- 5.2 The Mayor will move that the minutes of the previous meeting be signed as a correct record.
- 5.3 The only part of the minutes that can be discussed is their accuracy and any question as to their accuracy shall be raised by motion.
- 5.4 Minutes will only be signed at the annual meeting or at ordinary meetings.

6. The Leader's Statement

- 6.1 The annual meeting of Council may receive:
- (a) an address from the Leader of the Council for up to **15 minutes**;
 - (b) a response from the Leader of the main Opposition Group for up to **10 minutes**;

- (c) a response from each of the leaders of the other political groups for up to 5 minutes per speaker;
- (d) a response from any member who is not a member of a political group for up to 3 minutes.

7. **The Leader's and Chair's Reports and Questions**

- 7.1 A brief written report by each committee Chair and the Leader covering their area of responsibility will be circulated with the agenda for each Council meeting.
- 7.2 Any member may ask a Chair or the Leader a written or oral questions on:
 - (a) any matter included in a Chair's or the Leader's written report; or
 - (b) any matter in relation to which the Council has powers or duties or which affects the Council's area and which falls within the area of responsibility of the Chair's committee.
 - (c) Questions to the Leader's report, should do not be a question that can be answered by a Committee Chair.
 - (d) No question should be put to the Chair or the Leader if it relates exclusively to a ward, operational or resident matter that could have otherwise been resolved by reasonable use of the casework system.
- 7.3 The period allowed for the Leader's and Chairs' reports, written and oral questions and answers will not exceed 60 **minutes** without the leave of the Mayor and such leave will only be granted in exceptional circumstances.

Written questions

- 7.4 A member may submit a maximum of 2 written questions under Rule 7.2 if notice in writing of the question has been received by the Monitoring Officer no later than 10.00 am **four clear working days** before the day of the Council meeting. Questions will be dealt with in the order in which notice was received. Clear working days exclude the day of the notice and the day of the meeting, so that for example, if the Council meeting is held on Wednesday the 20th of the month, notice must be received by 10am Wednesday the 13th of that month. A question must relate to a single proposition and may not contain more than one part.
- 7.5 The Monitoring Officer shall copy the question to the Member to whom it is addressed and place them round the table at the next meeting of Council unless, in his/her opinion:
- (a) the request does not comply with the requirements of Rules 7.2 (a) or (b) or 7.4 above;
 - (b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, or otherwise infringes the proper conduct of local government;
 - (c) question is substantially the same as a question which has been previously received and answered within the past year, and there has been no significant and relevant change of circumstances since the previous question was answered.
- 7.6 An answer may take the form of:
- (a) a direct oral answer; or
 - (b) a reference to a publication, where the information is in a publication of the Council or other published work; or
 - (c) where the reply cannot conveniently be given orally (for example if it is in the form of diagrams), a written answer will be circulated to all Members at the meeting.
- 7.7 Each questioner is entitled to ask one supplementary question arising directly out of either the reply to the original question or where the questioner considers that the reply requires clarification.

- 7.8 If the member who has given written notice of the question is not present when the question is to be put that question may, with the consent of the Mayor, be asked by any other member present. In that case, the questioner will not be entitled to ask a supplementary question.
- 7.9 If the member who has given written notice of the question is not present when the question is to be put, and that question is not put by another member then the Mayor will put the question.
- 7.10 If written notice of a question has been given in accordance with these Rules and the
- (a) a written answer will be provided subsequently to all members and placed with the minutes; or
 - (b) that question may, with the consent of the questioner, be answered by another committee Chair.
- 7.11 A copy of each question and each written answer will be placed with the minutes.
- 7.12 If there are a number of written questions which, in the opinion of the relevant Chair, deal with the same issue, the Chair will provide one answer.

Oral questions

- 7.13 After questions and answers under Rule 7.4 have been dealt with, any member may ask one question of the each Chair and one question to the Leader under Rule 7.2
- 7.14 No supplementary question shall be put except if the questioner considers that the reply requires clarification and the Mayor gives leave to the questioner to ask a supplementary question.

8. **Rules of Debate**

8.1 **Motions without notice**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint any other member to a position of authority, ie Chair of a committee, where a vacancy exists in such office;
- (f) to appoint a committee or member arising from an item on the agenda for the meeting;
- (g) to withdraw a motion;
- (h) to amend a motion (subject to Rule 3.3);
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) to suspend a particular Council procedure rule for a period not exceeding the duration of that meeting;
- (m) to exclude the public and press in accordance with the Access to Information Rules;
- (n) to not hear further a member named under Rule 8.4.1 (improper or offensive behaviour) or to exclude them from the meeting under Rule 8.4.2 (continuing improper behaviour);
- (o) to give the consent of the Council where its consent is required by this Constitution;
- (p) to move an urgent motion where the Mayor has given consent.

8.2 **Amendment without notice**

Council may with the consent of the Mayor consider an amendment even though notice of the amendment has not been given in accordance with Rule 3.14, subject to Rule 3.15 providing the amendment arises or emerges from the debate or amendments to motions which have been moved without notice, or amendments to recommendations arising from Officers' reports.

8.3 **Rules of Debate**

8.3.1 The Mayor has a right to require the motion to be put in writing and passed to them unless notice of the motion has already been given.

8.3.2 No speeches shall be made until the motion has been seconded.

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

8.3.4 Content and length of speeches

(a) The mover of a motion may speak for up to 5 minutes when proposing a motion and also when exercising the right of reply.

(b) The seconder may speak for up to 3 minutes.

(c) No speech by any other member may exceed 3 minutes.

(d) Speeches must be directed to the question under discussion.

8.3.5 When Council is considering its strategic and budgetary framework:

(a) the mover of the motion may speak for up to 15 minutes and for up to 15 minutes when exercising the right of reply;

(b) the seconder may speak for up to 10 minutes;

(c) the Leader of the Main Opposition Group may speak, initially, for up to 10 minutes and for up to 10 minutes prior to the mover's right of reply at the close of the debate;

(d) the Leader of any other political group may speak for up to 10 minutes after the main opposer's initial speech; any member who is not a member of a political group may speak for up to 3 minutes.

(e) No speech by any other member may exceed 3 minutes.

8.3.6 When a member may speak again

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

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since they last spoke;
- (c) to speak on the main issue, if their first speech was on an amendment moved by another member (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order;
- (f) by way of personal explanation;
- (g) by way of providing information or clarification on the matter which is subject of debate.

8.3.7 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words; as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If the proposer and seconder of a motion accept an amendment then the motion will be debated as amended.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.

- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, and, if there are none, put it to the vote.

8.3.8 Alteration of motion

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

8.3.9 Withdrawal of motion

A member may withdraw a motion which they have moved.

8.3.10 Right of reply

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

8.3.11 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion (subject to Rules 3.3 and 3.4);
- (c) that the question be now put;
- (d) to proceed to the next business;

- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond three hours and fifteen minutes and for a specified period of time;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) not to hear further a member named under Rule 8.4.1 or to exclude them from the meeting under Rule 8.4.2.

8.3.12 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (a) If a motion that the question be now put or to proceed to the next business is seconded, the Mayor will put the procedural motion to the vote. If it is passed the Mayor shall give a right to speak to the seconder if they have not already spoken and will give the mover of the original motion a right of reply before putting their motion to the vote.
- (c) If a motion to adjourn the debate or to adjourn the meeting is seconded, the Mayor will put the procedural motion to the vote.

8.3.13 Questions about the management of the business in a meeting

- (a) A member who is unclear about the process of the management of the business in a meeting or who wants to challenge the way a matter is proceeding shall put a question to the Mayor about the business management and the Mayor, upon advice from the Chief Executive or the Monitoring Officer, shall determine the appropriate response. The Mayor's ruling shall be final.

- (b) If the Mayor is of the view that the whole of the business of a meeting cannot be accomplished satisfactorily in the time available, they may propose to the Council that certain items be held over to the next meeting.

8.3.14 Point of order

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

8.3.15 Personal explanation

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

8.3.16 Point of Information or clarification

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, they must first seek the permission of the Mayor. The Member must specify the nature of the information they wish to provide and its importance to the current debate, If the Mayor gives their permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when they have already spoken during the debate. The ruling of the Mayor on the admissibility of a point of information or clarification will be final.

8.3.17 Motion to revisit a previous decision made within past six months

A motion or amendment to revisit a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least **19 Members**.

8.3.18 Motion similar to one previously rejected within the past six months

A motion or amendment in similar terms to one that has been rejected at a meeting of the Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least **19 Members**. Once the notice or amendment is dealt with, no one can propose a similar motion or amendment for six months.

8.4 **Members' Conduct**

8.4.1 **Member Excluded from the meeting**

Where a member is required to leave the meeting, the means of remote attendance and access is to be severed whilst the discussion and vote takes place in respect of the item or items of business which the member or co-opted member may not participate in.

8.4.2 **Member not to be heard further**

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

8.4.3 **Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion. It shall be the responsibility of the relevant Group Leader to ensure that the member leaves the meeting. 8.4.3 General disturbance.

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

8.5 **Disturbance by Public**

8.5.1 **Removal of member of the public**

If a member of the public interrupt's proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal by the staff from the meeting room.

8.5.2 **Clearance of part of meeting room**

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

9. **Voting**

9.1 Unless stated elsewhere in this constitution, any matter will be decided by a simple majority of those members present at the meeting and voting at the time the question was put.

- 9.2 If there are equal numbers of votes for and against, the Mayor/Chair will have a second or casting vote. There will be no restriction on how the Mayor/Chair chooses to exercise a casting vote.
- 9.3 The Mayor/Chair has the discretion to conduct a vote by a show of hands or by electronic voting (if available).
- 9.4 Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- 9.5 Where any **five members** rise and request it immediately before the vote is taken, the voting on any question shall be recorded so as to show whether each member present gave his vote for or against that question or abstained from voting. The results of any vote so recorded shall be set out in the minutes of the meeting. This will be taken as a roll call and read out by the Clerk.
- 9.6 Where a member is called to vote they must only state whether they are 'for', 'against' or 'abstaining' on the motion.
- 9.7 Members may not rescind a previous vote once the subsequent member's vote has been cast.

Exclusion of Public and Press

- 9.8 Members of the public and press may only be excluded either in accordance with the Access to Information Rules or Rule 8.5 above.

10. Termination of Council Meetings

- 10.1 If the business of the meeting has not been concluded by three hours and fifteen minutes after its start, the Mayor must interrupt the meeting. The Member speaking must immediately sit down, and the Mayor will then immediately and without debate take a vote on the item under discussion (including any amendment) and shall then dispose of the remaining business in accordance with Rule 10.2 below.

Disposal of remaining business

- 10.2 If there are other motions or recommendations on the agenda that have not been dealt with, they are deemed formally moved and seconded and shall be put to the vote by the Mayor without Debate.
- 10.3 During the process set out in Rule 10.2, the only motions which may be moved are:

- (a) that the recommendations be delegated or referred to an appropriate body or individual for decision or report;
 - (b) that the recommendations be deferred to the next meeting;
 - (c) to move a motion that may be moved during debate, under Rule. 8.3.11
- 10.4 Voting shall be in accordance with these Procedure Rules including those relating to recorded votes.
- 10.5 When all the other motions or recommendations have been dealt with, the Mayor will close the meeting.
11. **Questions from the Public (also amends any scheme the Council has for public participation in planning, Licensing and any other committee.**
- 11.2 A member of the public resident within the Borough of Brentwood may, through the Mayor, ask any question relating to the business of the Council, provided that notice is received by 10.00 am two working days before the meeting of the question to be asked by the Monitoring Officer at the Town Hall, Ingrave Road, Brentwood, Essex.
- 11.3 The following provisions apply in relation to questions from the public:
- (a) The number of questions which may be asked by any one member of the public shall be limited to two at any one Council meeting.
 - (b) Such questions shall be included on the agenda for the meeting as the next item of business after the approval of the minutes of the last meeting.
 - (c) Questions given to the Monitoring Officer in accordance with this Procedure Rule shall be submitted to the Council in order of receipt.
 - (d) The member of the public who wishes to ask the question shall be given the opportunity of attending the Council meeting to put the question in person but if not present to ask the question when the item is called, the question shall be deleted from the list of questions to be asked, unless the questioner has informed the Mayor that they would like them to present their question on their behalf.
 - (e) The question shall be put to the Member named by the questioner.
 - (f) Every question asked pursuant to this Rule shall be put and answered without discussion but the Member to whom the question has been put may decline to answer.
 - (g) An answer may take the form of:

- (i) a direct oral answer given at the Council meeting which shall be recorded in the minutes, or
 - (ii) where there has been insufficient time to research the answer, a written answer will be sent to the questioner and circulated to all Members of the Council with the minutes of the meeting at which the question was asked.
- (h) Time for all questions from members of the public shall be restricted to **15 minutes in total**. At the expiration of that period of time, any questions which have not been asked shall be answered in writing and the answer placed with the minutes.
- (i) There shall be no public question time at the Annual Meeting or an Extraordinary Meeting of the Council.
- (j) The Mayor of the Council at his/her discretion may disallow any question which is scurrilous, vexatious, improper, irrelevant or otherwise objectionable, and shall inform the questioner in writing prior to the meeting with reasons for the decision. Any question requiring the disclosure of “Exempt Information” as defined under Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) shall not be allowed.

12. **Memorials or Petitions**

- 12.1 The Council welcomes memorials/petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement within 5 working days of receipt. This acknowledgement will confirm what the Council intends to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition and the organiser agrees.
- 12.2 For practical purposes we will not class it as a petition unless it has reached at least 10 signatures from people who live, work or study in the Brentwood Borough.
- 12.3 In the following paragraphs details are given on how you can go about submitting a petition, the different types of petition and how, in certain cases, special rules apply.
- 12.4 The Council will not consider petitions that are vexatious, abusive, personal in nature or otherwise inappropriate, as determined by the Monitoring Officer.

Guidelines for Submitting a Petition

12.5 Paper petitions should be sent to:

Governance and Members Support
Brentwood Borough Council
Ingrave Road
Brentwood
Essex
CM15 8AY

or, in the case of a consultation petition (see paragraph 12.15 below), to the address given in the consultation.

12.6 It is advised that Councillors should not act as the petitioner for reasons of bias and predetermination. If a Councillor signs a petition submitted to the Council, they will be considered predetermined and will not be allowed to participate on the debate or vote on the matter.

12.7 Petitions can be presented to ordinary meetings of the Council. Dates and times can be found on the Council's website. If you would like to present your petition to the Council, or someone else to present it on your behalf, please contact the Governance and Member Support at the Council at least 10 working days before the meeting and they will talk you through the process and help with any questions.

12.8 A petition must include:-

- a clear and concise statement covering the subject of the petition and a statement of what action the petitioners wish the Council to take.
- the name, address and signature of any person supporting the petition.

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

12.10 In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

Types of Petition

12.11 There are different types of petition as set out below. How your petition is dealt with depends on which type you submit.

Ordinary Petitions

- 12.12 These are any petitions not included in the types below. Please note that a petition which raises issues of possible Councillor misconduct will be dealt with under separate standards procedures, rather than under the petitions scheme.
- 12.13 Similarly, a petition that makes a complaint about the conduct of a Council officer may need to be dealt with under the Council's complaints procedure.
- 12.14 We would let you know how we intend to proceed.

Consultation Petitions

- 12.15 These are petitions in response to an invitation from the Council for comments as part of a consultation on a particular matter. For example, on a planning or licensing application or a proposed policy or strategy affecting a community. A petition on such a matter will be reported to the meeting, person or body with responsibility for taking the decision.

Governance Petitions

- 12.16 There are certain matters where an Act of Parliament requires the Council to consider a petition from local electors. For example, a petition calling for a referendum on having a directly elected mayor or asking for the creation of a parish or community council in part of the Council's area. This petitions scheme does not apply to such petitions.
- 12.17 Advice about these petitions should be sought from Governance and Member Support.

Petitions for Debate

- 12.18 In addition to a right for a petition to be presented directly at a Council meeting (see paragraph 12.7), a petition will be debated at a Council meeting if it contains 1500 or more signatures.
- 12.19 If a petition contains at least 750 signatures but less than 1500 it will be debated, at a public meeting of the relevant Committee.
- 12.20 More information about petitions for debate at Council meetings is given in section 6 below.

What will the Council do when it receives a petition?

- 12.21 An acknowledgement will be sent to the petition organiser within 5 working days of receiving the petition. The acknowledgement will advise on what the Council

plans to do with the petition and when the organiser can expect to hear from the Council again. The petition will also be published on the Council's website.

12.22 If the Council can do what the petition asks for, the acknowledgement will confirm that the action requested has been taken and the petition will be closed. If the petition has enough signatures to trigger a debate at a Council meeting, then the acknowledgement will confirm this and advise when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps the Council plans to take.

12.23 To ensure that people know what the Council is doing in response to petitions received, the details of all petitions submitted will be published on our website, except in cases where this would be inappropriate.

How will the Council respond to a petition?

12.24 The response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a meeting of the Council or other relevant Committee
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- calling a referendum
- writing to the petition organiser setting out the Council's views about the request in the petition.

12.25 In addition to these steps, the Council will consider what specific actions are available to address the issues highlighted in the petition.

12.26 If a petition is about something over which the Council has no direct control (for example the railway or a hospital) the Council will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and, where possible, will work with appropriate partners to respond to your petition. If we are not able to do this for any reason (such as if what the petition calls for conflicts with Council policy) we will set out the reasons for this to you.

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

Debates at Council or Committee Meetings

- 12.28 A petition containing 1500 or more signatures will be debated at a Council meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. A maximum of two petitions will be considered at any one meeting.
- 12.29 The petition organiser or their representative will be given five minutes to present the petition at the meeting. Councillors may ask questions of the petition organiser or their representative for clarity only. Councillors will then debate the subject of the petition for a maximum of 30 minutes.
- 12.30 The Council will decide how to respond to the petition at the meeting. It may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter. For example, by a relevant Committee. The petition organiser will receive written confirmation of the decision which will also be published on the Council's website.
- 12.31 If your petition contains at least 750 signatures but less than 1500 it will be debated at a public meeting of the relevant Committee. The Committee may decide to call a relevant officer or Councillor to attend the meeting. Committee members will ask the questions at the meeting, but you will be able to suggest questions to the Chairman of the Committee by contacting Governance and Member Support up to three working days before the meeting.
- 12.32 The relevant Committee will make recommendations to Council on how to respond to the petition.

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

- 12.33 If it is felt that the petition has not been dealt with properly, the petition organiser has the right to request that the Council's Audit & Scrutiny Committee to review the steps that the Council has taken in response to the petition. The petition organiser must give a short explanation of the reasons why the Council's response is not considered to be adequate.
- 12.34 The Audit & Scrutiny Committee will endeavour to consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine the petition has not been dealt with adequately, it may use any of its powers to deal with the matter. These may include commencing an investigation, making recommendations to the Council and arranging for the matter to be considered at a meeting of the Full Council.

12.35 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results will also be published on the Council's website.

13. **Disability from taking part in debate arising from arrears of council tax payments**

13.1 Pursuant to the Local Government (Finance) Act 1992, a Member who is more than two months in arrears with payments of their Council Tax may not take part in any Meeting of the Council or its committees, when any of the following matters are to be discussed:

(a) any matters relating to the Council's responsibilities as the billing and precepting Authority and any discussion on the capping regime;

(b) anything to do with the setting of the Council Tax;

(c) any matter which would have an effect on the calculation of the charge and anything else to do with the budget; or

(d) anything to do with the enforcement of the collection of Council Tax.

13.2 Failure to comply with the above provisions renders a Member liable to prosecution.

Meetings of the committees and sub-committees

14. **Meetings**

14.1 The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. The agenda for a meeting will give the date, time and place of each meeting, specify the business to be transacted, and will be accompanied by such reports as are available.

14.2 The Monitoring Officer may cancel or postpone an ordinary meeting prior to the issue of an agenda for the meeting where, after consultation with the Chair of the relevant committee (or in their absence, the Vice Chair), they consider that there is insufficient business to transact or where an event occurs which he/she considers would make it inappropriate to hold the meeting on the intended date. If circumstances make it impossible for a meeting to be held as convened, the Monitoring Officer, after consultation with the Chair of the relevant committee (or in their absence, the Vice Chair), may postpone an ordinary meeting and hold the meeting on a date to be agreed with the Chair of the relevant committee (or in their absence, the Vice Chair).

14.3 The Monitoring Officer may call an extraordinary meeting of a committee, after giving consideration to a request by the Chair of the relevant committee, or in the Chair's absence, the Vice Chair.

15. **Time and Place**

Meetings will be held in appropriate locations for the business as decided by the relevant committee. Meetings will start at 7.00 pm unless the committee or in exceptional circumstances, the Chief Executive/Monitoring Officer in consultation with the Leader of the Council agrees otherwise.

16. **Election of a Chair**

- 16.1 Except where Council has appointed a Chair and a Vice Chair, every body shall elect a Chair and a Vice Chair at their first meeting after the Council's annual meeting.
- 16.2 In the absence of the Chair, the Vice Chair will be responsible for chairing the meeting. In the absence of the Chair and Vice Chair, a chair for the meeting may be elected for that meeting. The election of the Chair or Vice-Chair shall be conducted by the Chief Executive, Monitoring Officer or the clerk to the meeting.
- 16.3 Where the Vice Chair takes the chair of the meeting, they shall forthwith nominate another Member to act in the role of Vice Chair in assisting with the management of business.
- 16.4 The Chair or Vice Chair of a committee or sub-committee shall hold office until the next annual meeting unless they resign by giving notice in writing to the Chief Executive or cease to be a member of the committee or sub-committee, or the Council, or are removed by Council.

17. **Openness**

All meetings shall be in public unless the business requires Members to consider 'confidential' or 'exempt' information (as defined in the Access to Information Rules in Chapter 4 of this Constitution) and shall take place at a venue accessible to the public.

18. **Appointments and Substitutes**

- 18.1 Following Annual Council, the Chief Executive on the nomination of Group Leaders, or in their absence, Deputy Group Leaders, appoints and removes members of committees and sub-committees.
- 18.2 A substitute Member may attend a particular meeting of the committee, and will have full powers of the committee Member, provided that the Member is a specified nominated substitute for that Member of the particular political group. In the event that the absent committee Member is a non-aligned Member, the specified substitute for the Member can be any Member of the Council.

- 18.3 The names of substitutes shall be announced at the start of the meeting by the Chair. The substitution shall be for the whole meeting and cease at the end of the meeting.
- 18.4 Substitutes for Planning, Licensing and Audit & Scrutiny committees must be drawn from Members who have received training in regulatory decision making. If a casual vacancy occurs on a regulatory committee, it will not be filled until the nominated member has been trained.
- 18.5 All Members are entitled to attend the training provided for members of regulatory committees.

19. Appointment and Removal of the Mayor

- 19.1 The Council will appoint a Mayor of the Council for the municipal year at the Annual Council meeting.
- 19.2 The Chair may be removed from the office of Mayor of the Council by motion on notice to an ordinary meeting of the Council or an extraordinary meeting convened for that purpose. The vote will succeed by simple majority.
- 19.3 A successful vote to remove the Mayor will take immediate effect and the Deputy Mayor will assume the chair until a new Mayor is appointed at the next ordinary meeting of the Council or at an extraordinary meeting convened for that purpose.
- 19.4 At any time, by motion with or without notice, the Council may take a vote of no confidence in the Mayor. If the vote succeeds, the Mayor will consider their position and provide their response to the next ordinary meeting of the Council.

20. Appointment and Removal of the Deputy Mayor

- 20.1 The Council will appoint a Deputy Mayor of the Council for the municipal year at the Annual Council meeting.
- 20.2 The Vice-Chair may be removed from the office of Deputy Mayor of the Council by motion on notice to an ordinary meeting of the Council or an extraordinary meeting convened for that purpose. The vote will succeed by simple majority.
- 20.3 A successful vote to remove the Deputy Mayor will take immediate effect. A new Deputy Mayor will be appointed at the next ordinary meeting of the Council or at an extraordinary meeting convened for that purpose.
- 20.4 At any time, by motion with or without notice, the Council may take a vote of no confidence in the Deputy Mayor. If the vote succeeds, the Deputy Mayor will consider their position and provide their response to the next ordinary meeting of the Council.

21. Appointment and Removal of the Leader and Deputy Leader

- 21.1 The Council will appoint a Leader of the Council and a Deputy Leader of the Council for the municipal year at the Annual Council meeting.
- 21.2 The Leader may be removed from the office of Leader of the Council by motion on notice to an ordinary meeting of the Council or an extraordinary meeting convened for that purpose. The vote will succeed by simple majority.
- 21.3 A successful vote to remove the Leader will take immediate effect and the Deputy Leader will assume the position of Leader until a new Leader is appointed at the next ordinary meeting of the Council or at an extraordinary meeting convened for that purpose.
- 21.4 A successful vote to remove the Deputy Leader will take immediate effect. A new Deputy Leader will be appointed at the next ordinary meeting of the Council or at an extraordinary meeting convened for that purpose.

22. Proportionality

- 22.1 Membership of committees and sub-committees will reflect proportionality. The Monitoring Officer shall be responsible for calculating the entitlement of each political group to places on committees and sub-committees and shall notify Group Leaders.

23. Rules of Debate

- 23.1 The Rules of Debate that apply to Council meetings set out in Chapter 4.1, may be applied to meetings of committees to the extent that the Chair considers appropriate.

24. Motions affecting persons employed by the Council

- 24.1 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the committee or sub-committee as the case may be, has decided whether or not the power to exclude the public under section 100 (A) (2) of the Local Government Act 1972 shall be exercised.

25. Rights to attend and speak

- 25.1 Any Member may attend any body to which these procedure rules apply, and where the committee or sub-committee has excluded the press and public the Chair will assume the Member has a need to know and may remain during consideration of the item.

- 25.2 With the exception of statutory committees which have separate procedural rules and with the consent of the Chair, a Member who is not a member of the committee or sub-committee may speak at the meeting. The Member should give prior notification by no later than **one working day** before the meeting to the Chair and have advised them of the substance of their proposed contribution. The Chair has an inherent discretion to allow Members to speak without notice and their decision is final.
- 25.3 Subject to 25.2 above, the Member may speak at the Chair's discretion, it being the expectation that a member will be allowed to speak on a ward matter.

26. Co-option

- 26.1 Generally, a committee or a sub-committee may co-opt a person or persons onto the Committee. Any person so co-opted may speak, but not vote.

27. Interpretation of Rules of Procedure and Notices

- 27.1 Except where otherwise provided, the Monitoring Officer will consult with the Chair, Group Leaders and Chief Officers over matters of interpretation and is responsible for making a determination if necessary. The Chair's decision is final.

28. Outside Bodies

- 28.1 Any person appointed by the Council to serve as our representative to an outside body shall be appointed until they resign, are dismissed or their successor is appointed. Members shall cease to hold appointments on the fourth day after the ordinary day of election unless they are re-elected as a Borough Member at the Election.

(a) The Council should not appoint where there is a conflict of office or interest

(b) The Council should not appoint where the appointment holds a risk that insolvency of the body would render the appointee debarred from office i.e. where the appointment is an effective directorship listed at Companies House.

- 28.2 The Chief Executive will:

(a) in consultation with the appropriate Group Leaders, revise as necessary appointments to outside bodies arising as a result of a vacancy or otherwise;

(b) in consultation with the Leader of the Council and the Group Leaders, agree the allocation of appointments to any new outside bodies or organisations.

(c) ensure that the body meets the criteria for an appointee

- 28.3 The Appointee will:

(a) ensure a good flow of communication between the outside body and the council. This will include non-confidential matters that the appointee may consider to be of interest or significance to either party.

(b) upon request of the Chief Executive, provide an update on any disclosable matters pertaining to the outside body.

(c) be prepared to provide a brief report to the Audit & Scrutiny committee when requested to do so under the work programme.

29. Termination of Committee and Sub-Committee Meeting

- 29.1 If the business of the meeting has not been concluded by two hours after its start, the Chair must interrupt the meeting. The Chair will then and without debate take a vote as to whether to continue with the meeting for a specified period of no longer than 30 minutes. This rule does not apply to meetings of the Planning or Licensing Committee.
- 29.2 Unless a majority of Members vote to continue with the meeting, the meeting shall be adjourned, and any remaining business will be considered at a time and date fixed by the Chair. If a date cannot be fixed, the remaining business will be considered at the next meeting.
- 29.3 If the majority of Members vote to extend the meeting for up to thirty minutes and after that time the business of the meeting is not concluded, the Chair will repeat the process set out in 29.1 until the business is concluded or dealt with

PART 4.2 - ACCESS TO INFORMATION PROCEDURE RULES

Introduction

The access to information rules which apply to council meetings, committees and sub-committees of the Council are set out in sections 100A-K and Schedule 12A of the Local Government Act 1972 as amended by the Openness of Local Government Bodies Regulations 2014. The Council believes in making information available to residents and will make as much information as possible available as part of its publication scheme.

1. Scope

- 1.1 These rules cover all meetings of the Council, its committees and the sub-committees and certain officer decisions. They do not apply to working groups, which have no delegated authority.
- 1.2 These rules cover Members' rights of access to information and the public's access to information.
- 1.3 These rules do not cover public rights of access to information under the Freedom of Information Act 2000, and the Data Protection Act 1998.
- 1.4 These rules do not affect any more specific rights to information contained elsewhere in this Constitution, in any statutory provision or the law.

2. Public access to meetings

2.1 Access to Information

For all purposes of the Constitution, the terms "notice", "summons", "agenda", "report", "written record", and "background papers" when referred to as being a document that is:

- (a) "open" to inspection" shall include for these and all other purposes as being published on the Council's website; and
- (b) to be published, posted, or make available at offices of the Council shall include publication on the Council's website.

- 2.2 Members of the public may attend all meetings subject only to the exceptions in these rules. They have the right to report on meetings, which is defined in The Openness of Local Government Bodies Regulations 2014 as:

- (a) filming, photographing or audio recording of proceedings;

- (b) using any other means for enabling people not present at the meeting to see or hear proceedings as it takes place or at a later date;
- (c) reporting or providing commentary on proceedings orally or in writing so that the report or commentary is available as the meeting takes place or later to persons not present;

3. **Public Notice of Meetings**

3.1 Remote access to meetings

- (a) For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:
 - (i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers; and
 - (ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not member of the public are able to attend the meeting in person; and
- (b) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access cannot be restored within in a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

3.2 The Council will give at least five clear working days’ notice of any meeting (excluding the day of publication of notice and the day of the meeting) of the Council, a committee or a sub-committee by posting details of the meeting at Town Hall, Ingrave Road, Brentwood (the designated office) and on its website. The notice will specify the business proposed to be transacted at the meeting.

3.3 Members entitled to attend a meeting will receive a summons giving five clear working days’ notice to attend and specifying the business proposed to be transacted at the meeting.

3.4 A member who has not been appointed as a member of the Staff Appointments Committee or the Dismissal Appeals Committee will not be able to attend meetings of these committees.

3.5 Except in the case of an item of business which the Chair is of the opinion that, by reason of special circumstances, should be considered as a matter of urgency, no business shall be transacted at a meeting other than that specified in the summons.

4. **Public access to agenda and reports before the meeting**

4.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least 5 clear working days before the meeting and on its website.

5. **Public access to copies**

5.1 The Council will supply copies of:

(a) any agenda and reports which are open to public inspection;

(b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

(c) if the Monitoring Officer thinks fit, copies of any other documents supplied to Members in connection with an item to any person.

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

6. **Public access to minutes etc after meeting**

6.1 The Council will make available for inspection copies of the following after a meeting electronically:

(a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which discloses confidential or exempt information (as defined in Rules 9 and 10);

(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

7. **Public access to background papers**

7.1 List of Background Papers

The author of a report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report but this does not include published works or those which disclose confidential or exempt information (as defined in Rules 9 and 10).

7.2 Public Inspection

- (a) A copy of each of the documents listed will be available for inspection at the same time as the report is available for public inspection.
- (b) The Council will make available for public inspection for six years after the date of the meeting one copy of each of the documents on the list of background papers.

8. **Exclusion of public access to reports**

- 8.1 The Monitoring Officer will exclude access by the public to reports which in his/her opinion contain confidential information as defined in Rule 9.
- 8.2 If the Monitoring Officer thinks fit, access by the public may also be excluded to reports which in his/her opinion relate to items during which, in accordance with Rule 10 (Exempt Information) the meeting is likely not to be open to the public.
- 8.3 Such reports will be marked "Not for publication" together with "confidential information" or the exemption relied upon.
- 8.4 Where an exemption is relied upon, any such report must contain the reasons why, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

9. **Confidential information – requirement to exclude public access**

- 9.1 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.
- 9.2 Confidential information means
 - (a) information given to the Council by a Government Department on terms which forbid its public disclosure or

(b) information the disclosure of which to the public is prohibited by or under another Act or by Court Order.

10. **Exempt information – discretion to exclude public access to meetings**

10.1 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 provided:

(a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies;

(b) that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (RULE 10.4 below), the description of the exempt information giving rise to the exclusion of the public; and

(c) that resolution states, by reference to reasons given in a relevant report or otherwise, that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.

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

10.4 Exempt information means information falling within the following categories (subject to any qualification) set out in paragraphs 1-7 below:

(a) Information relating to any individual

(b) Information which is likely to reveal the identity of an individual.

(c) Information relating to the financial or business affairs of any particular person (including the authority holding that information)

(d) 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.

(e) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(f) Information which reveals that the authority proposes –

- (i) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (ii) To make an order or direction under any enactment.
- (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

10.5 **Qualifications**

10.5.1 Information falling within paragraph 10.4.3 above is not exempt information by virtue of that paragraph if it is required to be registered under –

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

10.5.2 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.

10.5.3 Information which –

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of Rule 10.5 (paragraphs 1 or 2) above, is exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. **Disorderly conduct or general disturbance – discretion to exclude public**

11.1 The public may be excluded from a meeting in accordance with Rule 8.5 of the Council's Procedure Rules (Part 4.1 of the Constitution)

12 **Public Rights to access - officer decisions**

12.1 Under the Openness of Local Government Bodies Regulations 2014 Officers must record the following types of officer decisions which must then be published on the website, together with any background papers.

12.2 These include Officer delegations:

- (a) under a specific express authorisation; ie where delegated by the Council, Committee or Sub-Committee, or
- (b) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (i) grant a permission or licence;
 - (ii) affect the rights of an individual; or
 - (iii) award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

12.3 The above does not include confidential information referred to elsewhere in this section.

13. **Member access to information**

13.1 A Member has the same power of inspection of documents that members of the public possess.

13.2 A Member also has a statutory right of access to documents provided by section 100F of the Local Government Act 1972. This provides that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the council or a committee or a sub- committee must be open to inspection by a member of the council.

13.3 A member has a common law right to be provided with or to inspect council documents that it is reasonably necessary for them to see in order to carry out their duties as a councillor. A member wishing to exercise this 'need to know' right must inform the Monitoring Officer in writing of the document they wish to see together with information in support of their claim to have a 'need to know'. The decision of the Monitoring Officer as to whether or not the right is demonstrated shall be final.

13.4 All Members of the Council shall have access to all minutes and records of decisions.

14. **Member access to exempt or confidential documents**

14.1 This Section deals with Member access to documents which contain confidential or exempt information, including agenda papers, background documents and minutes.

14.2 Members of a committee or sub-committee will be provided with, and are entitled to receive, copies of confidential or exempt reports.

- 14.3 Subject to Rule 13.4 any Member of the Council may, upon request, receive a copy of a confidential or exempt report or agenda, or inspect an associated background document, on any matter except where the report or document contains information relating to staffing information, where the identity of individual staff would be revealed.
- 14.4 Any Member wishing to receive or inspect a report or document containing information referred to in Rule 14.3 must demonstrate a 'need to know' in accordance with the process set out in Rule 13.3 above.

PART 4.3 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. Decision making framework

1.1 Budget and Policy Framework

The Council is responsible, on an annual basis, for the adoption of its Budget and Policy Framework as set out below. The Council may agree to amend the annual timescale in respect of specific policies which have longer term significance, where it considers this to be appropriate.

1.2 Developing the Budget and Policy Framework

The Finance, Assets, Investments and Recovery Committee is responsible for the formulation of the policy and budgetary framework for approval by Council. It makes recommendations to Council on all strategic financing matters including proposing an overall revenue budget and capital programme and recommending the amount of Council Tax to be set.

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Finance, Assets, Investments and Recovery Committee draws up initial principles and assumptions in relation to any plan, strategy or budget which forms part of the Budget and Policy Framework.
- (b) Once drawn up, the Corporate Director - Resources will send copies of the document to the Chair of the Audit and Scrutiny Committee together with dates when the Finance, Assets, Investments and Recovery Committee is to consider them further.
- (c) The Audit and Scrutiny Committee will be convened to formulate responses to the Finance, Assets, Investments and Recovery Committee's initial principles and assumptions and whether any consultation by it, is appropriate.
- (d) The Finance, Assets, Investments and Recovery Committee will finalise its proposals for submission by way of recommendation to the Council taking into account the comments from the Audit and Scrutiny Committee. The report to Council must show the Finance, Assets, Investments and Recovery Committee's response to those comments.
- (e) The Council considers the proposals of the Finance, Assets, Investment and Recovery Committee and may adopt them, amend them or substitute its own proposals in their place.
- (f) The Council's decision shall be approved by a simple majority of votes cast at the meeting.

- (g) The decision must then be made public in accordance with the Council's Procedures and must be implemented immediately.

1.3 **Decisions which are exceptions to the Budget or Policy Framework**

No changes to any policy and strategy which make up the Budget and Policy Framework may be made by the Finance, Assets, Investments and Recovery Committee unless they involve changes necessary to ensure compliance with the law, ministerial direction or government guidance;

1.4 **Virement Arrangements**

- (a) Virements by the Finance, Assets, Investments and Recovery Committee must be taken in accordance with the Procedures.
- (b) In taking steps to implement Council policy, each Committee must not exceed those budgets allocated to different services or projects as approved by the Council. However, the Finance, Assets, Investments and Recovery Committee is entitled to vire from the Council's reserves where each individual virement does not exceed **£200,000**. Beyond that limit shall require the approval of the Ordinary Council.

PART 4.5 - FINANCIAL REGULATIONS

The Council is committed to providing good quality services to the residents of the area and has a requirement for strong financial governance and must ensure that we deliver value for money.

The Financial Regulations provide clarity about the financial accountabilities of individuals - Members, the Head of Paid Service, the Monitoring Officer, the Section 151 Officer (Chief Financial Officer), other Corporate Directors/Managers and all staff in general. These Regulations are therefore formally endorsed by the Council as a key part of its Constitution.

Another key purpose is to support and protect Members and staff in the performance of their duties where financial issues are involved. The Corporate Director - Resources (as Section 151 Officer) is authorised to provide, in addition, a comprehensive set of Financial Procedure Notes (FPNs) to support the formal Regulations and to facilitate the operation and application of the Council's financial management arrangements. Like the Regulations themselves, the FPNs are regularly reviewed and updated to meet changing circumstances and the changing requirements of the Council. The FPNs are available on the Council's intranet.

These Regulations need to be read in conjunction with the remainder of the Constitution and any other regulatory documents of the Council. Please address queries or comments regarding the Council's Financial Regulations and Financial Procedure Notes to the Section 151 Officer.

1. General

Application of Financial Regulations

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

- 1.1 The regulations identify the financial responsibilities of Council, all the Council's Committees, the Head of Paid Service, the Section 151 Officer, Corporate Director/Manager and all staff in general.
- 1.2 References in these Regulations to Service Managers also apply to the Head of Paid Services, and shall in every case be considered as referring to authorised persons acting on their behalf (whether authorised to do so or not). The Section 151 Officer has a nominated Deputy who has authority to act on his behalf. In certain cases as specified in these Regulations, Corporate Directors/Managers are required to maintain a written record where decision making has been delegated to members of their staff, including seconded and temporary staff.
- 1.3 These Regulations apply equally to any service carried out by the Council on behalf of the County Council or any other authority, body or person, and to all external agencies and their employees incurring expenditure or receiving income on behalf of the Council. Accordingly, the Corporate Directors/Managers and Committee Members shall ensure that partnership and other arrangements with external parties are not set up to operate in conflict with these Regulations as far as this Council's involvement is concerned.
- 1.4 Any action, which is an exception to these Regulations, may only be approved in exceptional circumstances by the Section 151 Officer in consultation with the Head of Paid Service and a report setting out the reasons for such action shall be submitted to the next available meeting of the Finance, Assets, Investments and Recovery Committee.
- 1.5 These Regulations shall apply until such time as they are rescinded, amended or suspended by Ordinary Council.
- 1.6 The Regulations are supported by a set of mandatory Financial Procedure Notes (FPNs) which provide more detailed direction on the arrangements to be complied with.

General Responsibilities

- 1.7 All Members and staff have a general responsibility for taking reasonable action to provide for the security of the resources under their control, and for ensuring that the use of these resources is legal, is properly authorised, and that economy, efficiency and effectiveness are secured.

- 1.8 Corporate Directors/Managers and responsible Committee Members are responsible for informing the Section 151 Officer of any matter liable to materially affect the finances (including any financial irregularities) of the Council including negotiations with government departments, before any commitment is incurred or arrangements reached. This includes the Council becoming a shareholder or owner of any company.

Compliance

- 1.9 Corporate Directors/Managers are responsible for ensuring that all staff in their service areas, are aware of the existence and content of the Council's Financial Regulations, the detailed financial procedures and guidance issued. They must also ensure that staff, understand the requirement to comply with these financial rules. The Section 151 Officer is responsible for ensuring that a current version of the financial regulations and procedures is available for reference on the Council's intranet and public website.
- 1.10 Compliance with Financial Regulations is mandatory. Breaches of Financial Regulations of a serious nature may result in disciplinary proceedings. Breaches shall be reported in the first instance to the Section 151 Officer who will decide what further action needs to be taken, if necessary in consultation with the Monitoring Officer. Where the Section 151 Officer considers it appropriate he will report to the next meeting of the Council and/or Finance, Assets, Investments and Recovery Committee.

Review

- 1.11 The Section 151 Officer is responsible for maintaining a continuous review of the financial regulations and, except where provided in (ii) below, submit any additions or changes necessary to Council for approval.
- 1.12 Any financial amounts referred to in these Regulations may be varied by the Section 151 Officer in line with general price inflation or otherwise as required by statute.
- 1.13 The Section 151 Officer will issue from time to time Financial Procedure Notes (FPNs) to support these Regulations. These prescribe more detailed financial controls and procedures consistent with these Regulations and such supplementary controls and procedures shall carry the same status as these Regulations.
- 1.14 The Section 151 Officer is responsible for issuing advice and guidance to underpin the Financial Regulations.

Budget Holder Awareness Training

- 1.15 All officers who have responsibility for a budget shall attend formal training. Attendance for the training is compulsory. Re-attendance is required after three years.

Finance Training for Members

1.16 Officers shall offer training for all Members of the Council.

2. Internal Controls

Introduction

- 2.1 The functions of the Authority are diverse and therefore to ensure delivery of the Council's strategic objectives, a framework of internal controls is required.
- 2.2 The Authority has statutory obligations and therefore requires internal controls to identify, meet and monitor compliance with these obligations.
- 2.3 Moreover the Council is required to produce an Annual Governance Statement (AGS). The Council has adopted a Code of Corporate Governance, which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government. The AGS is produced following a review of the Council's governance, risk management, counter fraud and internal control arrangements and explains how Brentwood Borough Council delivers good governance against the six key principles of good governance. It also reviews the effectiveness of these arrangements and includes an action plan to address any significant governance issues identified.
- 2.4 The Authority faces a wide range of financial, administrative and commercial risks, from both internal and external factors, which need to be managed to enable the Council to achieve its objectives. Internal controls are necessary to manage these risks in line with the Council's risk appetite.
- 2.5 A system of internal controls is established in order to provide measurable achievement of:
- (a) Efficient and effective operations,
 - (b) Reliable financial information and reporting,
 - (c) Compliance with laws and regulations, and
 - (d) Risk management. Advice and guidance on an appropriate internal control environment can be obtained from Internal Audit.
- 2.6 A transparent framework of financial management responsibilities and decision making is essential to the effective management of the Council's financial affairs.
All Members and officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public money.

Members

2.7 Members' responsibility for the overall management of the Council's financial affairs is exercised through:

(a) Council Meeting– The Council is responsible for:

- (i) Agreeing and approving the budget for the Council
- (ii) Adopting and changing the constitution, of which these regulations form part.

(b) Finance, Assets, Investments and Recovery Committee is responsible for:

- (i) Proposing the policy framework and budget to Council
- (ii) Discharging its functions in accordance with the policy framework and budget.

(c) Audit and Scrutiny Committee – The Audit and Scrutiny Committee has right of access to all information it considers necessary. It is responsible for:

- (i) The review of and/or scrutiny of decisions made or actions taken in connection with the discharge of any of the Council's functions.
- (ii) Review decisions taken by Finance, Assets, Investments and Recovery Committee or an Officer to ensure that they are not contrary to the budget or previous Council decision.
- (iii) Reviewing governance and internal control arrangements and bringing any matters requiring further review or action to Council or Finance, Assets, Investments and Recovery Committee .
- (iv) Monitoring compliance with these financial regulations.
- (v) Approving and monitoring the delivery of the internal audit activity of the Council and can consult directly with internal and external auditors.
- (vi) Undertaking the Council's responsibilities under the Accounts and Audit Regulations 2011. This includes approving the statement of accounts. The committee ensures that the Councils' assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it. The committee also monitors the effective development and operation of risk management within the Council.

Section 151 Officer

2.8 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Authority. This responsibility cannot be overridden. The statutory duties arise from:

(a) Section 151 of the Local Government Act 1972.

(b) The Local Government Finance Act 1988.

(c) The Local Government and Housing Act 1989.

(d) The Local Government Finance Act 1992.

(e) The Local Government Act 2000.

(f) The Local Government Act 2003.

(g) The Accounts and Audit Regulations 2011.

(h) The Localism Act 2011.

(i) The Local Government Finance Act 2012.

(j) The Audit & Accountability Act 2014.

2.9 Guidance on the role of the Section 151 Officer is also given by the Chartered Institute of Public Finance & Accountancy (CIPFA) in the paper entitled 'The Role of the Chief Financial Officer in Local Government'.

2.10 The Section 151 Officer shall nominate a qualified member of staff to deputise for them in their absence.

(a) The proper administration of the Authority's financial affairs.

(b) Setting financial management standards and monitoring compliance with them.

(c) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.

(d) Providing financial information.

(e) Preparing the revenue budget and Capital Programme.

(f) Reporting on the robustness of estimates made for the purposes of preparing budgets and the adequacy of the proposed financial reserves.

- (g) The execution and administration of treasury management decisions in accordance with the Council's policy statement and treasury management practices (TMP's).
- (h) Preparing the Council's Annual Statement of Accounts in accordance with all applicable codes of practice on Local Authority accounting.

The Section 151 Officer may allocate their day to day responsibilities to an appropriate representative in accordance with the Scheme of Delegation Authority to Officers and the Schedule of Financial Authority to Officers (the Authorised Signatory List).

2.11 Section 114 of the Local Government Act 1988 - The Section 151 Officer shall report to the Council, Finance, Assets, Investments and Recovery Committee, Audit & Scrutiny Committee and the external auditor in fulfilment of the statutory obligations under Section 114 of the Local Government Finance Act 1988 or otherwise if the Authority or any of its Officers:

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

2.12 The Section 151 Officer shall assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective operations, financial stewardship, effective risk management, probity and compliance with laws and regulations.

2.13 The Section 151 Officer shall ensure that there are effective and properly resourced internal audit and risk management functions, that key controls are operating effectively and that controls are recorded and managed within an effective risk management framework.

Corporate Directors/Managers

2.14 Corporate Directors/ Managers shall ensure that:

- (a) Managerial control systems operate effectively throughout their directorates. These will include the defining of policies, the setting of objectives and plans, the monitoring of financial and other performance, and the taking of appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities and ensuring staff have a clear understanding of the consequences of any lack of control.
- (b) Financial and operational control systems and procedures operate effectively throughout their directorates. These will include physical

safeguards for assets, segregation of duties, checking and authorisation procedures and information systems.

- (c) The approval of the Section 151 Officer is sought on any matter liable to affect the Authority's finances materially, before any commitments are incurred.
- (d) Members of all Committees are advised of the financial implications of all proposals and that these have been previously agreed by the Section 151 Officer (see section 6).
- (e) Contracts are duly signed on behalf of the Authority.
- (f) Key controls and control objectives for internal control systems are reviewed regularly in order to be confident as to the proper use of resources, achievement of objectives and management of risk.
- (g) Processes are managed so as to check that established controls are being adhered to and are effective.
- (h) Existing controls are reviewed in the light of changes affecting the Authority and new controls are established and implemented in line with guidance from the Section 151 Officer.
- (i) Controls which are no longer necessary or no longer cost or risk effective, are removed in consultation with the Section 151 Officer.
- (j) Assurance over the control environment is provided as part of the governance assurance framework.

3. Revenue Budget

- 3.1 A strong planning process expresses the ambition of the Council in clear priorities over the medium term and promotes a wide understanding of these priorities. This is a vital basis for financial planning as it enables limited resources to be used in a way that best delivers the corporate priorities of the Council.
- 3.2 Council is responsible for agreeing the Council's policy framework and budget. The purpose of the framework is to explain overall priorities and objectives, and ensure that resources follow the identified priorities, agreed service levels and proposals for improvement. The revenue budget is important in this context because, together with the Capital Programme (see Section 4) and the levels of reserves (see Section 5), it expresses the approved policies and service levels of the Council in financial terms. Once approved, the revenue budget confers authority on the Council's Executive and officers to incur expenditure to achieve the aims and objectives of the Council. If expenditure plans cannot be met within the approved budget, then they can only proceed with an approval to divert funds (as provided for in Section 7).

- 3.3 Council is also responsible for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions shall be referred to Council by the Monitoring Officer.
- 3.4 Finance, Assets, Investments and Recovery Committee is responsible for taking in-year decisions on resources and priorities in order to deliver the policy framework within the financial limits set by the Council.
- 3.5 The budget is the financial expression of the Council's plans and policies. The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with priorities.
- 3.6 The budget and Council Tax is approved by Council and proposed by Finance, Assets, Investments and Recovery Committee on the advice of the Section 151 Officer. The draft budget shall include allocations to different service areas, services and to specific projects. The budget will assess the adequacy of contingencies and reserves.
- 3.7 The Section 151 Officer shall:
- (a) with the appropriate Leading Member recommend to the Council appropriate guidelines for preparation of the annual budget and the financial forecast for at least the following three financial years.
 - (b) issue appropriate guidance to Service Managers and Members and prepare a corporate budget timetable.
 - (c) ensure the approved budget guidelines are complied with so that statutory and other deadlines can be met.
- 3.8 Corporate Directors/Managers shall:
- (a) submit to the Section 151 Officer estimates in accordance with the budget guidelines and within agreed time scales.
 - (b) ensure that the estimates are prepared having regard to the Corporate Plan, Local Code of Governance and other corporate aims and objectives.
 - (c) for each subjective element of their budget, supply to the Section 151 Officer an estimated profile of the rate of expenditure or income across the budget year.
 - (d) provide any other information the Section 151 Officer may require.

- 3.9 The Section 151 Officer, shall, with the appropriate Lead Member, report to the Finance, Assets, Investments and Recovery Committee who shall make recommendations to Full Council on:
- (a) the draft revenue estimates, ensuring that the content and format comply with legal requirements and relevant codes of practice.
 - (b) the robustness of the estimates made for the purposes of calculations and the adequacy (or otherwise) of the Council's reserves.
 - (c) any significant surplus or deficit arising on the Collection Fund with a recommended course of action.
 - (d) the final proposed budget to enable the appropriate levels of contingencies & reserves, and Council Tax to be agreed for the year.
- 3.10 Subject to (3.11) below, the approval of a budget for the year by Full Council confers authority to spend in accordance with the budget for that year. Service Managers are responsible for co-ordinating programmes of expenditure and income that will achieve the objectives on which the budget was based. Commitments affecting future financial years may only be made where the provisions of Section 7(6) are satisfied.
- 3.11 Corporate Directors/Managers shall not enter into any new arrangements or other contractual commitments with significant long-term revenue consequences without the prior consent of the Section 151 Officer and subsequently reporting to the Finance, Assets, Investments and Recovery Committee. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of revenue payments which extend beyond the end of the following financial year.
- 3.12 If a Corporate Directors/Managers wishes to incur expenditure outside the approved budget provision, or anticipates an under spend against an approved budget, the procedures set out in Section 7(4) and (5) shall apply.
- 3.13 Corporate Directors/Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, and details of any limitation on the authority delegated to them (the Authorised Signatory List).

4. Capital Programme

- 4.1 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments that will continue for many years, even decades.
- 4.2 Capital expenditure is a key part of the Council's investment strategy. It should therefore be linked to asset management plans and be carefully prioritised in order to maximise the benefit of scarce resources.
- 4.3 The Section 151 Officer shall:
 - (a) issue detailed procedures/guidance on the preparation of Capital Programme.
 - (b) prepare annually a rolling Capital Programme (year of budget plus at least the following 3 years) and based on the current Corporate Plan, Asset Management Plan, the Housing Revenue Account Business Plan & other relevant corporate plans & strategies and submit this to the Finance, Assets, Investments and Recovery Committee who shall make recommendations to Council for approval.
 - (c) report to the Finance, Assets, Investments and Recovery Committee and Council on the overall position and the availability of resources to support the Capital Programme.
 - (d) ensure that the revenue implications of the Capital Programme are contained within the Revenue Budget and Medium-Term Financial Strategy.
 - (e) ensure that sources of funding (revenue, capital grants, capital receipts, borrowing, etc) are identified for the entire programme and that all schemes are properly appraised and provide value for money.
- 4.4 Corporate Directors/Managers shall:
 - (a) submit to the Section 151 Officer estimates of the cost of capital spending proposals and the estimated amount and timing of any capital receipts, and other contributions receivable.
 - (b) ensure that the estimates submitted are prepared having regard to the Corporate Plan and other corporate aims and objectives described in 4.3(ii).

- (c) provide any other information the Section 151 Officer may require for the review, monitoring or control of the Capital Programme.
- 4.5 In working up any capital scheme, Corporate Directors/Managers shall have regard to the risk of triggering claw back or breaching restrictive covenants or other contractual conditions in relation to land or otherwise.
- 4.6 The inclusion of a capital scheme within an approved Capital Programme shall confer authority to spend, including expenditure which may fall in a subsequent financial year, subject to the:
 - (a) provisions of the Council's Contracts Procedure Rules.
 - (b) provisions of (4.7) below.
- 4.7 If a Corporate Director/Manager wishes to incur expenditure outside the approved Capital Programme provision, the procedures set out in Section 7(4) and (5) shall apply.
- 4.8 Corporate Directors/Managers shall give the Section 151 Officer early warning of known underspends, overspends and changes to planned resources so that the availability of uncommitted capital resources may be monitored effectively.
- 4.9 Corporate Directors/Managers shall notify the Section 151 Officer in writing of the names of any officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, and details of any limitation on the authority delegated to them (the Authorised Signatories List).

5. Reserves and Balances Policy

- 5.1 It is important that the Council has a policy setting out its approach to reserves and balances. It is also a requirement of Sections 32 and 43 of the Local Government Finance Act 1992 that each local authority has regard to the level of resources needed to meet estimated future expenditure when calculating its annual Council Tax requirement. This policy also has regard to LAAP Bulletin 77 'Local Authority Reserves and Balances', issued in November 2008. All reserves and balances form part of the General Fund apart from the Housing Revenue Account balance which is specifically 'ring fenced' for use in connection with that account.
- 5.2 As there is no specified minimum level of reserves/balances that an authority should hold, it is the responsibility of the Section 151 Officer to advise the Council about the level of reserves.
- 5.3 Types of Reserves
 - (a) The Council shall maintain the following reserves:

- (i) General reserves/balances - to manage the impact of uneven cash flows and unexpected events or emergencies. The general reserves/balances do not have any restrictions as to their use.
 - (ii) Earmarked reserves - sums set aside from time to time to meet known or predicted specific requirements, exceptional risks and uncertainties.
- (b) The Council shall maintain a number of other reserves that arise out of the interaction between legislation and proper accounting practices. These reserves, which are not resource-backed and cannot be used for any other purpose, will be specified by the Section 151 Officer in the Annual Financial Report.
- (c) Details of all reserves, including in-year movements and year-end balances shall be contained in the Council's Annual Financial Report.

5.4 Principles to Assess the Adequacy of Reserves/Balances

- (a) The Section 151 Officer will advise the Council on the adequacy of reserves/balances. In considering the level of general reserves/balances, the Section 151 Officer will have regard to:
 - (i) The strategic financial context within which the Council will be operating through the medium-term.
 - (ii) The overall effectiveness of governance arrangements and the system of internal control.
 - (iii) The robustness of the financial planning and budget-setting process.
 - (iv) The effectiveness of the budget monitoring and management process.
- (b) Having had regard to these matters, the Section 151 Officer will advise the Council on the monetary value of the required general reserve/balances.
- (c) In exceptional circumstances, the actual level of the Council's reserves/balances may happen to or may be allowed to fall below the level that was considered appropriate. This may be consistent with the need to meet short-term unforeseen expenditure. However, the actual level will be monitored against reserves/balances outlined in the Council's Medium Term Financial Strategy (MTFS). The MTFS will set out the level of planned balances and if the balance falls outside of the MTFS, a plan shall be agreed by Full Council, on the advice of the Section 151 Officer, to restore balances to the appropriate level.

- (d) In considering earmarked reserves, the Section 151 Officer will have regard to the purpose and usage in respect of each reserve and will advise Members accordingly.

5.5 Establishing and Utilising Earmarked Reserve

- (a) When establishing earmarked reserves, compliance with the Code of Practice on Local Authority Accounting and, in particular, the need to distinguish between reserves and provisions must be complied with.
- (b) The Chartered Institute of Public Finance and Accountancy (CIPFA) publish an annual Statement of Recommended Practice (SoRP), which governs the information to be contained within a local authority's Annual Financial Report. The SoRP states that for each reserve established, the purpose, usage and the basis of transaction should be clearly identified.
- (c) The Council may also create new or add to earmarked reserves at any time.
- (d) In approving the earmarked reserve the following information will be required:
 - (i) Purpose – the reason for creating the reserve should be clearly stated.
 - (ii) Usage – there should be a clear statement of how and when the reserve can be used. Without a clearly defined purpose and clearly defined usage there will be ambiguity over the application of reserves.
 - (iii) Basis of transactions, management and control – the Section 151 Officer will be responsible for managing the earmarked reserve (including altering the year to year profiling if required) and will have delegated authority for approval of expenditure from the earmarked reserve, although day to day management of the reserve may be delegated to a specific officer.
- (e) Once an earmarked reserve has fulfilled the purpose for which it was established the Section 151 Officer shall advise on whether the balance should be reallocated to another similar purpose reserve or surrendered to the Council's reserves/balances.

(f)

5.6 Reporting of Reserves

- (a) The Section 151 Officer will monitor the drawdown of reserves and keep Members informed, through normal budget monitoring reports as and when required.

- (b) As part of the budget setting report to Council the Section 151 Officer will include:
 - (i) A statement of movements in reserves for the year ahead and the following 2 years.
 - (ii) A statement of the adequacy of general reserves and provisions in the forthcoming year.

6. Reports to Members

6.1 Changes to existing policy and new policy must result from considered decisions of the Council having considered the advice of officers. Policy decisions require information concerning the financial and risk management implications of the Council, therefore:

- (a) All financial and risk management implications must be detailed within Committee reports and be validated by the Section 151 Officer (for Financial Implications and for Risk Management) prior to their progression through the approval process. Informal advice to Members shall also have regard to these arrangements.
- (b) Reports shall only be put before the Council, Committees, Sub-Committees, Panels or Members if both the financial implications for the Council have been considered and presented fairly in the report.
- (c) Consultation shall take place as appropriate between the authors of reports, the Section 151 Officer and any other Corporate Director/e Manager affected, in good time for any financial and risk management implications to be properly identified.
- (d) Where there are no financial implications or they are negligible, the report shall say so.

7. Budgetary Control

Budgetary control reports are made to full Council and the Finance, Assets, Investments and Recovery Committee at various times during the year. Within this framework the section 151 officer has the following responsibilities:

7.1 Overall responsibility for budgetary control

The Section 151 Officer is responsible for:

- (a) the overall financial control of the revenue budget and Capital Programme.
- (b) providing financial information for corporate performance reports.

- (c) subdividing and allocating service revenue budgets and the Capital Programme within the overall budget framework according to the Council structure and services, having regard to relevant Codes of Practice.
- (d) supplying timely information on receipts and payments on each budget and capital scheme, sufficiently detailed to enable managers to fulfil their budgetary control responsibilities.

7.2 Responsibility for control of individual budgets

Corporate Directors/ Managers are responsible:

- (a) for the budgets and programmes allocated to them, for delivering the levels of service on which they were based, and for compliance with their financial obligations.
- (b) for monitoring levels of service and performance within services, as measured by expenditure and income incurred against relevant budgets and Capital Programme provision.
- (c) for seeking virements in accordance with (7.4) below, either to increase or to reduce the provision allocated to particular budgets or Capital schemes, including income budgets, in order to maintain budget provisions in line with the service levels required.
- (d) may exercise powers delegated to them to enter into new financial commitments, including commitments relating to recruitment and remuneration of staff, only where adequate provision has been made in the revenue budget or Capital Programme and where the revenue consequences for future financial years comply with (7.6) below.
- (e) shall provide any additional information the Section 151 Officer may require.

7.3 Variances from budget

The Section 151 Officer is responsible:

- (a) for reporting significant variances (defined as 5% or £50,000, whichever is greater) to the Finance, Assets, Investments and Recovery Committee where a Corporate Director/Manager fails to take action under (7.4) to (7.6) below.
- (b) for agreeing annually:
 - (i) a list of expenditure proposals for which revenue budget provision had been made in the previous year and for which the particular goods or

services had not been supplied before the financial year end (carry forwards).

- (ii) a list of expenditure proposals on capital schemes for which provision had been made in the total Capital Programme for the previous year but the programme had slipped / or been accelerated so that supplementary estimates may be executed for the ensuing financial year in accordance with (7.5) below. For clarity the approval of items under (ii) does not represent a key decision as the key decision was made when the budget was originally approved.

7.4 Virements between budgets

7.4.1 The overall budget is approved for each year by Full Council following recommendation by Finance, Assets, Investments and Recovery Committee. Officers are thereby authorised to incur net expenditure in accordance with the estimates that made up the budget for the current financial year. The rule below covers 'virement'; that is switching resources between approved estimates or heads of expenditure and income.

7.4.2 'virement' is 'planned transfer of a budget for use in a different purpose to that originally intended'.

7.4.3 Subject to appropriate consultation, budget allocations may be moved (vired) between revenue budgets or between schemes within the Capital Programme for the purpose of maintaining approved service levels and/or responding to unforeseen budget pressures and/or meeting the efficiencies' target, by each Corporate Director/Manager in consultation with the Section 151 Officer or Deputy. This will also include technical virements.

7.4.4 However any budget allocation to be moved (vired) from revenue budgets to the Capital Programme (Revenue Contribution to Capital Outlay (RCCO)) will be in accordance with the following scheme of virements:

(a) Up to £75,000 By the Section 151 Officer

(b) Up to £150,000 By the Section 151 Officer in consultation with the Lead Member for Finance

(c) Over £150,000 By the Finance, Assets, Investments and Recovery Committee

and in making any such decision, due regard shall be made to any budget implications for future financial years.

7.5 Supplementary estimates

(a) Revenue expenditure

Where no provision currently exists in the revenue budget, or where the provision made for an existing budget is insufficient and a virement is not available under (7.4) above, then new or additional budget provision may be established using reserves (general or earmarked) as outlined in the Reserves and Balances Policy section (Section 5). In making any such decision, due regard shall be had to any budget implications for future financial years.

(b) Capital expenditure

Where no provision currently exists in the Capital Programme, or where an existing provision is insufficient and a virement is not available under (7.4) above, then new or additional provision may be established to the extent of any uncommitted capital resources, using reserves (general or earmarked) or underspends from elsewhere in the Capital Programme in accordance with the following scheme of supplementary estimates:

Up to £50,000	Section 151 Officer
Up to £150,000	By the Section 151 Officer in consultation with the Lead Member for Finance
Over £150,000	By the Finance, Assets, Investments and Recovery Committee
or where (7.3)(b)(ii) applies	By the Finance, Assets, Investments and Recovery

In making any such decision, due regard shall be had to any implications for the Capital Programme and revenue budget in future financial years.

Any additional expenditure that cannot be offset as outlined in (7.5) (a) or (b) above cannot be incurred without the approval of full Council.

(c) Partnership Expenditure and External Funding

Where no provision currently exists in the revenue budget or Capital Programme for specific projects or activities which are to be wholly or partly funded by external agencies or partners, then the above criteria for supplementary estimates will apply to the value of the Council's net financial contribution to the revenue or capital cost of the project. The Section 151 Officer is empowered to agree a supplementary estimate where the net cost to the Council is nil (for example, a grant has been authorised by the government) and to adjust the revenue budgets and Capital Programmes to reflect the gross value of all such arrangements and transactions.

Corporate Directors/Managers and Lead Members must liaise with the Section 151 Officer, and refer to Section 9 of these Regulations, prior to undertaking any bidding for external funding or setting up any partnerships.

7.6 Commitments of revenue expenditure affecting future financial years

The following arrangements shall apply in relation to the commitment of expenditure prior to the approval of the revenue budget for the financial year concerned:

- (a) Corporate Directors/Managers may commit expenditure affecting future financial years provided that:
 - (i) the estimated cost in real terms does not exceed the current and future years' budget provision
 - (ii) and the consent of the Section 151 Officer is obtained where Financial Regulations 3 (7.5) and 14 (7.3) apply.
- (b) Corporate Directors/ Managers may only commit expenditure on new or extended services:
 - (i) With the approval of the Section 151 Officer in consultation with the Lead Member for Finance where the financial commitment in the following financial year does not exceed £50,000 in respect of the proposal and that Financial Regulation 3 is adhered to.
 - (ii) Or otherwise with the approval of the Finance, Assets, Investments and Recovery Committee.
- (c) The Section 151 Officer is authorised to agree the placing of orders for vehicles, plant and equipment before Council approves the budget where this is necessary in order to secure delivery in the required time scale.

7.7 Delegation

Corporate Directors/Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

8. Accounting Records

- 8.1 Maintaining proper accounting records is one of the ways in which the Authority discharges its responsibility for stewardship of public resources. The Authority has a statutory duty to prepare its Annual Statement of Accounts on the basis that they give a true and fair view of the financial position of the Council on the reporting date. The accounts are subject to external audit, which provides assurance that they have been prepared properly, that proper accounting practices and statutory requirements have been followed and that proper

arrangements have been made for securing economy, efficiency and effectiveness in the use of the Authority's resources. There is also a statutory right for members of the public to inspect the accounts and relevant supporting documentation.

8.2 The Section 151 Officer is responsible for:

- (a) making arrangements for the proper administration of the Authority's financial affairs.
- (b) selecting and applying appropriate accounting policies consistently.
- (c) determining accounting procedures and maintaining proper accounting records.
- (d) making an annual report to the Audit and Scrutiny Committee on the financial outturn for the previous financial year (also reported to Finance, Assets, Investments and Recovery Committee as part of the medium term financial planning report).
- (e) ensuring that the Statement of Accounts for that year is completed, approved by the Audit and Scrutiny Committee and published within the corporate and statutory timetable and in accordance with relevant Codes of Practice.

8.2 Corporate Directors/Managers shall ensure that:

- (a) all the Authority's transactions, material commitments, contracts and other essential accounting information are recorded completely, accurately and promptly.
- (b) in the allocation of accounting duties of any kind:
 - (i) the duty of providing information, calculating, checking and recording sums due to or from the Council shall be separated as completely as possible from the duty of collecting or disbursing such sums.
 - (ii) Officers charged with the duty of examining and checking the accounts of cash or stores transactions shall not themselves be engaged in any of those transactions.
- (c) any Financial Procedure Notes prescribed by the Section 151 Officer are fully complied with.

(d) the Section 151 Officer is supplied with such information as may be requested by him from time to time for the purpose of the proper administration of the Council's affairs.

9. **Procuring and Paying for Works, Supplies and Services**

9.1 Placing Orders for Works, Supplies and Services

All orders for works, goods and services shall be placed in accordance with the Council's Standing Orders relating to Contracts, and Purchase Ordering Processes. Standing Orders relating to Contracts form part of the Council's Constitution and are available on the Council's intranet. All quotation and tender exercises shall be conducted in accordance with legislation and regulations regarding procurement requirements, including the Public Contracts Regulations 2015.

9.2 Other contract terms

Corporate Directors/Managers shall:

- (a) in consultation with the Section 151 Officer include in every contract appropriate clauses to cover financial and insurance requirements, and to provide sufficient security for due performance.
- (b) put in place adequate procedures for the effective cost control of all contracts.
- (c) ensure all contracts are entered onto the Council Contract Register.

9.2 Receipt of Works, Supplies and Services

Service Managers shall put in place adequate systems for verifying the performance of work or the receipt of supplies and services. In particular controls shall be established to ensure that:

- (a) work done or supplies and services received are as specified.
- (b) quality or workmanship is of the required standard.
- (c) appropriate entries are made in inventory, stock or other records.

9.4 Payment for Works, Supplies and Services

- (a) Corporate Directors/Managers shall make adequate and effective arrangements approved by the Section 151 Officer for checking and certifying invoices and other requests for payment without undue delay.
- (b) unless covered by (c) below or where otherwise approved by the Section 151 Officer, all payments shall be made by automated bank transfer or crossed cheque drawn on a bank account of the Council. Payments may only be made by direct debit with the prior approval of the Section 151 Officer.
- (c) Minor items of expenditure, up to a limit set by the Section 151 Officer, may be paid on procurement cards by officers authorised to hold a card. All cardholders must comply with the Council's Procurement Card Policy, which is available on the Council's intranet.

9.5 Delegation

A list of authorised signatories shall be maintained detailing all officers authorised to make payments for works, goods or services, and details of the limitations set for each officer. These limits will be agreed by the Corporate Director/Manager and the Section 151 Officer. New officers shall be given authority to make payments only after their application has been approved by the Corporate Director/ Manager and the Section 151 Officer.

9.6 General

- 9.6.1 Every Member and Officer engaged in contractual or purchasing decisions on behalf of the Council shall declare any links or personal interests they may have with purchasers, suppliers and contractors and shall comply with the provisions of the appropriate codes of conduct.
- 9.6.2 Corporate Directors/Managers shall ensure that the duties of ordering works, supplies or services, approving orders, and receipting orders are not performed by the same Officer.

10. Income

10.1 General

Corporate Directors/Managers shall implement arrangements made by them under this Section only with the approval of the Section 151 Officer.

10.2 Prompt identification of sums due to the Council

Corporate Directors/ Managers shall make adequate and effective arrangements for the prompt identification of all sums due to the Council.

10.3 Prompt recording in the Council's accounts of all sums due

10.3.1 Corporate Directors/ Managers shall make adequate and effective arrangements for recording all sums due in the Council's accounts.

10.3.2 Accounts for sums due may only be raised on the Council's corporate Sundry Debtors system unless alternative arrangements have been approved by the Section 151 Officer.

10.4 Collection and receipting of all income

Corporate Directors/Managers shall make adequate and effective arrangements for the collection and receipting of all income and for the security of all cash and other valuables having regard to agreed insurance limits for locked safes

10.5 Banking of income

Corporate Directors /Managers shall make arrangements, approved by the Section 151 Officer, for the secure transfer of cash and cheques from the Council's offices and facilities to the Council's bankers.

10.6 Reconciliation of income

Corporate Directors/ Managers shall make adequate and effective arrangements for the sums collected and banked to be reconciled with the records of sums due.

10.7 Debt recovery

In all cases Corporate Directors /Managers shall co-operate with the relevant Debtors' Team plans to take prompt and appropriate action to recover all sums overdue to the Council.

10.8 Writing off sums due

10.8.1 Corporate Directors / Managers are responsible for recommending the write off of irrecoverable debts to the Section 151 Officer.

10.8.2 Where an individual debtor owes the Council no more than £10,000, the Section 151 Officer may approve the write off of that debt where there is satisfactory

evidence that it is irrecoverable. In any other case, where there is satisfactory evidence, the Section 151 Officer shall refer the debt to the Chair of the Finance, Assets, Investments and Recovery Committee for approval to write off.

10.9 Reviews of fees and charges

Corporate Directors/Managers shall, in consultation with the Section 151 Officer, review all fees and charges at least annually in accordance with guidance issued by the Section 151 Officer.

10.10 Segregation of duties

The duty of providing information, calculating, checking and recording sums due to or from the Council shall be separated as far as is possible from the duty of collecting such sums.

11. Banking, Cheques and Money Laundering

The Council has a duty to ensure that all moneys are properly safeguarded and only utilised for authorised purposes. The Council must also comply with the statutory money laundering regulations. It is therefore necessary to have controls to ensure the proper authorisation and control of all bank accounts, all payments made from them and all income deposited.

11.1 Operation of bank accounts

11.1.1 The Section 151 Officer is responsible for opening, closing and operating all bank accounts and related facilities in the Council's name.

11.1.2 All communications with the Council's bankers concerning its bank accounts and any changes in banking arrangements shall be made under arrangements approved by the Section 151 Officer.

11.2 Authorisation of signatories

Only Officers personally mandated by the Section 151 Officer may sign cheques and other documents transferring funds out of the Council's bank accounts.

11.3 Payments from Council bank accounts

11.3.1 All payments from the Council's bank accounts shall be, so far as is practicable, automated bank transfer or by crossed cheque but the Section 151 Officer may exclude from this regulation such payments as he may consider appropriate.

11.3.2 No payments shall be made from the Council's bank accounts unless approved personally by a signatory authorised in accordance with (11.2) above.

11.3.3 Payment by Direct Debit must be authorised by the Section 151 Officer.

11.4 Custody of cheques

11.4.1 All cheques and paying in books shall be ordered and controlled by the Section 151 Officer.

11.4.2 The safe custody and issue of cheques shall be carried out under arrangements made by the Section 151 Officer.

11.5 Banking of income

Corporate Directors/Managers shall make arrangements, approved by the Section 151 Officer, for the secure transfer of cash from the Council's offices and facilities to the Council's bankers (see Section 10.5).

11.6 Reconciliation

The Section 151 Officer shall regularly reconcile the Council's bank accounts with the accounting records and investigate any discrepancies.

12. **Security and Inventories**

The Authority holds assets in the form of land and buildings, fixed plant, vehicles and machinery, furniture and equipment, software and data, cash and other items of value (e.g. stocks and stores). It is important that assets are used efficiently in service delivery, that they are adequately insured and that there are arrangements for the security of both assets and information required for service operations. Up to date records are a prerequisite for sound asset management. See also Sections 13 (Stocks and Stores), 15 (IT Systems) and 17 (Insurances).

12.1 Proper use of the Council's resources

Resources are to be used solely for the purposes of the Authority unless authorised otherwise by the Council, and are to be properly accounted for.

12.2 Asset register

The Section 151 Officer is responsible, in consultation with other Corporate Directors/Managers, for the compilation and maintenance of an asset register (in appropriate format for accounting purposes) covering land and property and other fixed assets. The function

of the asset register is to provide the Authority with information about fixed assets so that they are safeguarded, used efficiently and effectively, and are adequately maintained.

12.3 Inventories

12.3.1 Each Corporate Director/Manager is responsible for maintaining an inventory of moveable assets above a de-minimis value or as determined by other criteria under procedures determined by the Section 151 Officer.

12.3.2 A list of inventories should also be maintained for assets which, although below the de-minimis level, are attractive & desirable and therefore more prone to theft.

12.3.3 Inventories are to be reviewed at least once each year and copies made available to the Section 151 Officer.

12.4 Security

Corporate Directors/Managers shall make proper arrangements for:

(a) The security of all buildings and other assets under their control.

(b) The safe custody of all documents held as security.

13. Stocks and Stores

The Council holds many different types of stocks and stores. It is important that these assets are safeguarded and used efficiently in service delivery. There therefore needs to be adequate arrangements for the receipt, security and issue of stocks and stores and for the disposal of surplus or redundant items.

13.1 Receipt, Control and Custody

Corporate Directors/Managers shall make adequate and effective arrangements for the custody, care and physical control of all stocks and stores in their departments.

13.2 Stocks and Stores Records

13.2.1 In consultation with the Section 151 Officer, Corporate Directors/ Managers shall maintain adequate records of all issues and other movements of stocks and stores.

13.2.2 Corporate Directors/Managers shall provide to the Section 151 Officer each year a stock certificate detailing stocks and stores in hand at 31 March.

13.2.3 Corporate Directors/Managers should make provision for regular stock takes and reconciliations to take place during the year.

13.3 Maintenance of stocks

13.3.1 Corporate Directors/ Managers shall maintain stocks at reasonable levels and subject them to a regular independent physical check.

13.3.2 Discrepancies shall be appropriately investigated, pursued to a satisfactory conclusion and removed from the Authority's records by making stock adjustments as necessary. Gains and losses resulting from stock adjustments shall only be written off or adjusted in the records under arrangements approved by the Section 151 Officer.

13.4 Disposal of surplus, obsolete or redundant stocks or equipment

Corporate Directors/ Managers shall ensure that all stocks and equipment no longer required are disposed of economically under arrangements approved by the Section 151 Officer.

13.5 Delegation (1) Receipt, Control and Custody

Corporate Directors / Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to sign stock certificates and other related matters on their behalf, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

14. Treasury Management and Leasing

Treasury Management is in place to provide assurance that the Authority's money and overall cash flow are properly managed, in a way that balances risk with return but with overriding consideration being given to the security of investments.

The signing of leases and other forms of credit can have a wider financial impact than just the rental payments. It is therefore necessary that the Section 151 Officer be given the opportunity to evaluate the costs of any potential agreement before it is legally binding.

14.1 General

The Section 151 Officer is responsible for all investment, borrowing and leasing undertaken in the name of this Authority.

14.2 Treasury Management

The Section 151 Officer shall:

(a) keep under review the Council's Treasury Management Policy Statement and submit any amendments to the Finance, Assets, Investments and Recovery Committee prior to consideration and adoption by Full Council.

(b) maintain, having regard to the recommendations of the CIPFA Code of Practice and Guidance Notes, a Treasury Manual consisting of Treasury

Management Practices (TMP's) setting out the duties of Members and Officers covering all aspects of Treasury Management. The Manual shall be comprehensively reviewed at least once every three years.

- (c) prepare, for adoption before the commencement of each financial year, a Treasury Management Strategy, an Investment Strategy and a Debt Repayment Policy, having regard to any statutory guidance and to the provisions of the CIPFA Code of Practice and Guidance Notes, in respect of the Council's strategy and policies to be set for that financial year. The proposals will be submitted to the Finance, Assets, Investments and Recovery Committee prior to consideration and adoption by Full Council.
- (d) recommend to the Council before the commencement of each financial year a range of Prudential Indicators, including borrowing limits, to be set for that financial year in accordance with statute and the CIPFA Prudential Code.
- (e) keep the strategies, policies and Prudential Indicators for the current financial year under constant review and submit revised proposals for adoption from time to time as necessary. In any event, present a mid-year review for consideration to the Finance, Assets, Investments and Recovery Committee.
- (f) arrange all borrowing and investments of the Authority in accordance with the Treasury Management Policy Statement, the approved Treasury Management and Investment strategies for the year the approved Debt Repayment Policy for the year and the current Treasury Manual.
- (g) make all investments, borrowings and other financing transactions only in the name of the Authority or in the name of nominees approved by Full Council.
- (h) ensure that Council Members tasked with Treasury Management responsibilities, including those responsible for scrutiny, have access to training relevant to their needs and those responsibilities.

14.3 Leasing and Similar Arrangements

The taking of a lease or other similar arrangements, including new or extended leases of land and property, may only be entered into with the consent of the Section 151 Officer. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of payments which extend beyond the end of the following financial year. If the taking of the lease (or other similar arrangement) is in relation to real estate/property (i.e. land or buildings or rights associated) then the method of treatment of the costs may vary depending on the length of the agreement and whether a premium (lump

sum) is paid and/or an annual rental/fee. No agreement relating to property or rights over property may be entered into (either taking or granting) without the consent of the Section 151 Officer.

14.4 Delegation

The Section 151 Officer shall maintain in writing a list of the names of any Officers in his department authorised to act on his behalf in relation to the specific responsibilities set out in this Section, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

15. Value Added Tax

Value Added Tax (VAT) is a tax applied to many of the goods and services the Council either buys in or supplies to others. VAT therefore impacts on many of the Council's financial transactions. Whilst generally speaking the Council is able to reclaim the VAT it pays on buying in goods and services, this ability is limited in relation to certain types of services made by the Council. VAT is a very complex tax, particularly where it relates to land and property transactions and partnership arrangements. It is essential that the VAT implications of all major projects, partnership arrangements and land & property transactions be evaluated well in advance of commitments being made. If this is not done the Council could be faced with a substantial irrecoverable VAT bill that is both unplanned and unbudgeted. HM Revenues and Customs also have the power to impose penalties (fines) for late or non-compliance with VAT rules.

15.1 The Section 151 Officer is responsible for the determination of all arrangements for the collection, recording, payment and recovery of VAT.

15.2 The Section 151 Officer shall:

- (a) maintain complete and accurate accounting records of all the Council's VAT transaction.
- (b) submit the Council's VAT return to HM Revenues and Customs monthly in accordance with statutory deadlines.
- (c) prepare the Council's partial exemption calculation as at the end of each financial year and monitor the Council's partial exemption position as part of the budget setting process.
- (d) submit the Construction Industry Scheme returns monthly in accordance with statutory deadlines.
- (e) prepare and submit Voluntary Disclosure Notices to HM Revenues and Customs and recover any revenues due.

- (f) conduct all negotiations with HM Revenues and Customs in respect of VAT matters affecting the Council and make appropriate decisions as a result of these negotiations.
- (g) exercise as appropriate the Council's option to tax in respect of land and buildings.
- (h) provide guidance, advice and training to Council staff on all aspects of VAT as they affect the Council.
- (i) publish and regularly update appropriate VAT guidance notes internally.

15.3 Corporate Directors/ Managers shall:

- (a) properly account for VAT on all transactions under arrangements determined by the Section 151 Officer.
- (b) consult the Section 151 Officer in all cases where the VAT treatment of any transaction is unclear so that the matter can be reviewed and appropriate treatment determined.
- (c) consult the Section 151 Officer in all cases where new projects, schemes or services are proposed, well in advance of commitments being made, so that any impact on the Council's VAT position can be assessed, any necessary action taken to protect the Council's VAT recovery position and the financial implications of the proposal can be properly considered.
- (d) co-operate with any VAT inspector and give access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.

16. Insurances

The provision of insurance cover is one of the major methods of responding to corporate and service risks identified under the Council's Risk Management arrangements (see Section 21). Cover is arranged externally (with major insurance companies). Accurate record keeping and timely provision of information are essential if the Council's insurance cover is to be effective. This Section should be read in conjunction with that relating to Risk Management (Section 20).

16.1 The Section 151 Officer is responsible for:

- (a) effecting all insurance cover on a corporate basis, through external insurance or through internal self-insurance arrangements as they consider appropriate and maintaining proper records of these arrangements.

- (b) handling, negotiating, processing and settlement of all claims, in consultation with any external insurers where necessary.
- 16.2 Corporate Directors/Managers and Members shall notify the Section 151 Officer promptly:
- (a) of all new risks, properties, vehicles or other assets that require insurance
 - (b) of any alterations to such risks or assets affecting existing insurances
 - (c) should any of the Authority's assets be damaged, lost or stolen
 - (d) of any loss, liability, damage or personal injury that may lead to a claim against the Authority. Failure of the Council to appropriately notify the insurer may invalidate cover under the policies and shall provide any related information or explanation required within time scales determined by the Section 151 Officer and/or relevant legislation.
 - (e)
- 16.3 Corporate Directors/Managers shall ensure that no employee or other person covered by the Authority's insurances admits liability (orally or in writing) or makes any offer to pay compensation, because this may prejudice a proper assessment of the Council's liability.
- 16.4 Corporate Directors/Managers shall maintain proper records relating to assets which require insurances effected by the Authority, under arrangements approved by the Section 151 Officer.
- 16.5 Corporate Directors/Managers shall consult with the Section 151 Officer and also seek advice from the Legal team on the terms of any indemnity that the Authority is requested to give.
- 16.6 Corporate Directors/Managers shall consult with the Section 151 Officer to determine the minimum level of insurance cover required of any person or body (including all Council contractors and those bodies using Council land or facilities) to indemnify the Council or to effect insurance cover in accordance with the Council's requirements and shall check that appropriate insurance cover is in place.

17. Pay and Conditions of Employment

Staffing costs are the largest single item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are paid in accordance with the scheme adopted by Full Council. Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly

accounting for tax can be severe. It is therefore important for all Officers to be aware of their role.

17.1 General

Terms and conditions of employment are a function of the Finance, Assets, Investments and Recovery Committee. The Head of Paid Services is responsible for the administration of all arrangements for the payment of salaries, wages, pensions and other emoluments to existing and former employees, and for all related matters. The Head of Paid Services is responsible for car loans to eligible employees, travel and subsistence claims.

17.2 Deductions from Pay

The Head of Paid Services shall make proper arrangements for all statutory and other deductions from pay, including tax, national insurance and pension contributions, and payment of such sums to the bodies concerned.

17.3 Terms of employment

Corporate Directors/Managers shall promptly notify the Head of Paid Services of:

- (a) the terms and conditions applying to new contracts of employment.
- (b) any changes or events affecting the salaries, wages or emoluments of the Council's employees.
- (c) all resignations, retirements and terminations of employment.

17.4 Provision of Information

Corporate Directors/ Managers shall provide to the Head of Paid Services:

- (a) all relevant information, including notifications of sickness absence, in an agreed format and within agreed time scales to enable the prompt and accurate payment of all elements of pay.
- (b) notification of the impending departure of any employee involved with the custody of cash or stores.

17.5 Members Allowances

Payments to elected Members of the Council shall be made by the Head of Paid Services in accordance with the Council's approved scheme.

17.6 Delegation

Corporate Directors*/ Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

18. **Internal Audit**

The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2011 more specifically require that a "relevant body shall maintain an adequate and effective system of internal audit". Accordingly, internal audit provides one aspect of an independent and objective assurance in the review of the system of governance, risk management and internal control as a contribution to the proper, economic, efficient and effective use of resources. In fulfilling this responsibility, the internal audit service must comply with the mandatory Public Sector Internal Audit Standards and Code of Ethics and CIPFA's Statement on the role of the Head of Internal Audit.

- 18.1 The Section 151 Officer shall ensure that the Internal Audit Service is available and adequately resourced and independent in its planning and operation.
- 18.2 The Section 151 Officer or his authorised representative shall have authority to enter at all reasonable times any offices, premises or land under the control of the Council and shall have unrestricted access to all records, documents and correspondence relating to any matter under consideration, without limitation.
- 18.3 All staff shall provide such information and explanations as the Section 151 Officer or his authorised representative considers necessary and shall produce upon demand cash, stores, documents or other property of the Council under their control.
- 18.4 Corporate Directors/ Managers and the Section 151 Officer shall give appropriate consideration of Internal Audit reports and identified control and governance concerns.
- 18.5 Corporate Directors/Managers and other staff shall immediately notify the Internal Audit Service on behalf of the Section 151 Officer upon discovery or suspicion of any financial irregularity, whether affecting cash, stores, property, financial records or otherwise. Internal Audit have delegated authority to investigate allegations of Fraud, Theft, Corruption, Bribery, Money Laundering and any other financial irregularity on behalf of the Section 151 Officer. The Section 151 Officer shall notify the Head of Paid Services in all significant

cases.

- 18.6 The Council shall set out in policy documents its approach to countering fraud, theft, bribery, money laundering and corruption and to “whistle blowing”.
- 18.7 The Internal Audit Service has direct access to the Head of Paid Services, Section 151 Officer, Monitoring Officer and to all levels of management and to elected Members.
- 18.8 As part of the adequate system of internal audit, the Council will maintain an Audit and Scrutiny Committee in line with Codes of Practices.
- 18.9 The Council’s Internal Audit Service will report its findings, assurances and performance to the Audit and Scrutiny Committee in line with the Internal Audit Charter.
- 18.10 Internal Audit will provide an annual opinion on the adequacy and effectiveness of the internal control, governance and risk management arrangements. This opinion will be fed into the Council’s Annual Governance Statement.

19. External Audit and Inspection

The basic duties of the external auditor are governed by statute. In fulfilling his responsibilities, the external auditor works to a code of audit practice issued by the National Audit Office. The Authority may from time to time also be subject to audit, inspection or investigation by various other external bodies. Government department inspectorates and bodies such as HM Revenues and Customs have statutory rights of access. Rights of access are also sometimes granted under contractual arrangements, including partnerships where the Council is not the lead body. It is important that all Officers of the Council respond to external scrutiny in a timely, professional and helpful manner.

- 19.1 The Section 151 Officer shall facilitate the co-ordination of the work of internal and external audit together with ensuring appropriate consideration of External Audit reports by officers and/or Members.
- 19.2 The External Auditor will place reliance on the work of the Internal Audit Service where ever possible to reduce duplication.
- 19.3 The Section 151 Officer shall ensure that the Council’s accounts are scrutinised by the External Auditor, who must be satisfied that the statement of accounts ‘gives a true and fair view of’ the financial position of the Council and its expenditure and income for the year in question and complies with the legal requirements.
- 19.4 Co-ordination of all other inspection and independent review work shall be the responsibility of the Section 151 Officer.
- 19.5 Corporate Directors/ Managers and relevant Members shall give external auditors and inspectors access at all reasonable times to premises, personnel,

documents and assets which they consider necessary for the purposes of their work.

- 19.6 The External Auditor will report their findings, assurances and recommendations to those charged with the governance (the Audit & Scrutiny Committee).

20. Risk Management

The Council faces numerous risks: to people (including its employees), to property, to its reputation and to continuity of service delivery. Risk is the threat that an event or action will adversely affect the Council's ability to achieve its objectives and to successfully execute its strategies. This will include both external and internal risks. An opportunity is an event or action that will enhance the organisations ability to achieve its objectives and deliver approved strategies. Risk Management is the planned and systematic process by which risks and opportunities are identified, evaluated and controlled. Risk management seeks to protect the Council and enable it to achieve its stated aims and objectives. It also seeks to maximise the rewards that can be gained through effectively managing risk. It is the responsibility of the Audit and Scrutiny Committee to approve the Council's risk management policy and strategy and to promote a culture of risk management awareness throughout the organisation.

This Section should be read in conjunction with that relating to Insurance (see Section 16), which is just one tool used in the control of organisational risk.

- 20.1 The Audit and Scrutiny Committee shall approve and promote the Authority's corporate risk management policy and strategy.
- 20.2 The Section 151 Officer shall:
- (a) develop risk management processes and procedures to assist in the identification, assessment, reduction and control of material risks and opportunities, in line with Codes of Practice.
 - (b) undertake regular monitoring and review of the corporate, project, partnership and service arrangements for effective risk management.
- 20.3 The Section 151 Officer shall ensure that the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage of its resources.
- 20.4 Corporate Directors/Managers are responsible:
- (a) for risk management within all areas under their control, including service, projects and partnerships, having regard to appropriate advice from the Section 151 Officer.

(b) for carrying out regular reviews of risk and opportunity, risk reduction and maximisation strategies and the operation of appropriate controls (including business continuity plans) within their departments.

(c) to ensure that their service, project and partnership risk registers are appropriately updated on a regular bases, within the Council's approved system.

20.5 Corporate Directors/ Managers and lead Members shall promptly notify the Section 151 Officer of all new risks and opportunities that are material, as they are identified.

21. External funding, partnership arrangements and projects.

21.1 Partnerships play a key role in delivering Council Services and in helping to promote and improve the wellbeing of the Borough. The Council works in partnership with others - public agencies, private companies, community groups and voluntary organisations – and its distinctive leadership role is to bring together the contributions of the various stakeholders. The Council will mobilise investment, bid for funds, champion the needs and harness the energies of local people and community organisations. It will be measured by what it achieves in partnership with others.

21.2 Partnerships can provide ways to access new resources and share risk. They can also lead to innovative and improved ways of delivering services whilst forging new relationships. Whilst external funding is a very important source of income, funding conditions need to be carefully considered to ensure they are compatible with the aims and objectives of the Council. In some instances, tight specifications may not be flexible enough to link to the Authority's corporate plan. Also, new ways of working can increase the Council's exposure to fraud and to irregularities in the operation of, for example, VAT, insurances and pay.

21.3 Bidding for external funding

(a) Corporate Directors/Managers shall seek external resources to further the priorities and aims of the Council's Corporate Plan.

(b) Before making a bid for resources which, if successful, would require any financial commitment from the Council. Corporate Directors/ Managers shall ensure that appropriate budgets have been approved or earmarked in accordance with these Regulations.

(c) In working up bids, Corporate Directors/ Managers shall use appropriate project appraisal processes to assess the viability of the project in terms of resources, staffing and expertise, to identify and assess all potential risks and to ensure achievement of the required outcomes.

21.4 Setting up partnerships

- (a) Corporate Directors/Managers shall agree and accept formally the roles and responsibilities of each of the partners involved in a project before the project commences.
- (b) Where the Council is to be the lead partner, or the accountable body where other public funds are involved, the responsibilities of the Council and the obligations of the various partners are to be clearly defined and understood.
- (c) Corporate Directors/ Managers shall consult the Section 151 Officer on:
 - (i) any financial control, insurance and audit requirements to be incorporated in the partnership arrangements.
 - (ii) the overall financial implications for the Council.
- (d) Prior to entering into any commitment, the relevant Corporate Directors/Manager shall ensure that any matched funding or other financial obligations of the Council are provided for within the revenue budget or Capital Programmes and that arrangements are made for future years' financial provisions to reflect these obligations. This should include any audit and other consequential fees as appropriate.

21.5 Working with partners

- (a) These Financial Regulations and the Council's Contracts Procedure Rules shall apply equally to any orders for works, goods or services which are the responsibility of the Council under the partnership arrangements.
- (b) The relevant Corporate Director/Manager shall comply with any key conditions of funding and any statutory requirements.
- (c) Any variation in resources to be contributed by the Council, or in the overall resources of the partnership where the Council is the accountable body, shall be dealt with in the same way as other budget variations as set out in Section 7 (Budgetary Control).
- (d) The relevant Corporate Director/Manager shall ensure that any financial control, insurance and audit requirements of the partnership are met.
- (e) The relevant Corporate Director/Manager shall communicate regularly with the other partners throughout the project so that any problems are identified and shared on a timely basis to achieve their successful

resolution.

21.6 Delegation

Corporate Directors/Managers shall notify the Section 151 Officer in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

22. Work carried out for others

- 22.1 Legislation enables the Council to provide a range of services to other bodies. Such work may help maintain economies of scale and existing expertise. It may also be helpful to share the Council's facilities, expertise and resources with others under partnership arrangements, mutuals, companies etc. Effective controls should be in place to ensure that any risks associated with such work are appropriately managed and that the work falls within the Council's statutory powers.
- 22.2 Financial Regulations apply equally to any service carried out by the Council on behalf of the County Council or any other Authority, body or person, and Corporate Directors/Managers and Members shall not set up partnership or other arrangements with external parties to operate in conflict with these Regulations as far as this Council's involvement is concerned.
- 22.3 Corporate Directors/Managers shall properly assess the financial implications of the proposal prior to commitment following consultation with the Section 151 Officer and draw up contracts having regard to the Council's powers, relevant policies and protocols and in compliance with any insurance or other requirements of the Section 151 Officer.

23. Trading Arrangements

- 23.1 The Council will at times look for potential trading opportunities. Effective controls should be in place to ensure that any risks associated with trading are appropriately managed.
- 23.2 The Section 151 Officer shall:
- (a) Advise on and approve the financial implications of any proposed trading arrangements between the Council and third parties.
 - (b) Advise on the establishment and operation of trading accounts to ensure that the accounting and control processes comply with Council and

statutory requirements and that the results of trading operations are properly recorded and reported.

23.3 Corporate Directors/ Managers shall:

- (a) Identify potential trading opportunities and evaluate the respective risks and financial benefits.
- (b) Obtain the approval of the Section 151 Officer, in consultation with the relevant Members.
- (c) Maintain a register of contracts entered into.
- (d) Comply with advice issued by the Section 151 Officer in relation to the operation of trading accounts and the proper recording and reporting of trading results.

Glossary

Annual Financial Report

The Council's annual report on its financial position for the year ending 31 March. The report is required to be in a prescribed format and is subject to independent review.

Asset Management Plan

A document setting out the Council's plan for developing systems and internal controls to manage its land, buildings and capital expenditure in the most effective way to achieve its goals.

Asset register

A detailed listing of land, buildings, vehicles and major items of plant and equipment (assets). Asset registers are important because they enable an effective assessment of the management of assets to be made through a comprehensive record of attributes. They are also a useful basis for arranging appropriate insurance cover and substantiating insurance claims in the event of fire, theft or other loss.

Budget

A statement expressing the Council's policies and service levels in financial terms for a particular financial year. In its broadest sense it includes both the revenue budget and the Capital Programme and any authorised amendments to them, and the planned usage of reserves and balances. It does not however include the forward financial forecast, which is for financial planning purposes only.

Budget Book

The publication in which the Council sets out its budget for a particular financial year.

Budgetary control

The continual review of expenditure and income, both revenue and capital, against planned levels of expenditure and income to help ensure that service objectives are achieved and the overall resources of the Council are not over or under spent. This process is aided by the use of budget profiles.

Budget head

For a particular service activity, the level of detail at which revenue or capital budgets are approved by the Council, whether in the Budget Book, the latest approved Capital Programme or as a result of supplementary estimates approved for the budget year.

Budget profiles

As an aid to budgetary control, managers are required to specify before the start of a budget year the rate at which each budget head for which they are responsible is expected to be consumed during the course of the financial year, having regard to seasonal influences, past experience and other factors. This budget "profile" is then used to monitor the actual rate of consumption as the year progresses. The profile for any budget head may be amended in the light of changing circumstances.

Budget provision

The amount approved by the Council for a particular budget head.

Capital contributions

Sums contributed by external persons and bodies towards the cost of capital schemes to be carried out by the Council. These commonly derive from planning agreements with developers but also include government grants and sums recovered from third parties.

Capital expenditure

This generally relates to expenditure on the acquisition or enhancement of fixed assets which will be of use or benefit to the Authority in providing its services for more than one year. It also includes grants to other persons and bodies for spending by them on similar purposes.

Capital Programme

The Council's financial plan covering capital schemes and expenditure proposals for the current year and a number of future years. It also provides estimates of the capital resources available to finance the programme and a statement of any under- or overprogramming.

Capital receipts

The proceeds from the disposal of land and other assets which are available to finance new capital expenditure after deducting any amount required by statute to be paid over to the Secretary of State. Statute prevents capital receipts being used to finance revenue expenditure.

Capital resources

The resources earmarked either by statute or by the Council to meet the cost of capital expenditure instead of charging the cost directly to revenue. The definition covers borrowing, capital receipts and grants and contributions from external persons and bodies given for capital purposes. The Council may also contribute revenue resources to the financing of capital expenditure, and for as long as these are included in the Capital Programme; they are regarded similarly as capital resources.

Carry forwards

Revenue budget provision for specific goods or services which had not been supplied to the Council by 31 March and for which there is inadequate budget provision in the subsequent year. When these budgets are carried forward and added to the budget for that subsequent year in accordance with these Regulations, they are referred to as "carry forwards". A similar principle applies to capital expenditure budgets.

CIPFA

The Chartered Institute of Public Finance and Accountancy (CIPFA) is the leading professional body for accountants employed in the public sector. It issues Codes of Practice and other guidance as appropriate on matters addressed by these Regulations.

CLG

Department for Communities and Local Government, the department of government responsible for local government in England.

Codes of conduct

The protocols within which Members and Officers will work as set out in Part 5 of the Constitution.

Codes of practice

Guidance issued normally by professional bodies in relation to standards which are not regulated by statute. For example, CIPFA have issued Codes of Practice giving detailed guidance on accounting standards, internal audit and treasury management.

Collection Fund

The fund into which Council Tax and Business Rates income is paid and out of which the precepts of Essex County Council, Essex Police Authority, Essex Fire Authority, Brentwood Borough and Local Councils are met. The CLG's central share of Business Rates income is also paid out of the Collection Fund. Any surplus or deficit is shared between the various parties, other than Local Councils, on the basis of precepted amounts and local shares.

Computer systems

Commercially available software which might be acquired for use on Council computers, whether mainframe, local PC or networks. For the purposes of these Regulations, the definition is not intended to cover applications to which such systems might be put.

Contingency provisions

Money set aside in the budget to meet the cost of unforeseen items of expenditure or shortfalls in income and to provide for changes in inflation and interest rates compared with the assumptions on which the rest of the budget was set.

Contract Procedure Rules

The Council's rules relating to the procurement of works, supplies and services as set out in Part 4 of the Constitution. These are supported by Section 7 of these Regulations.

Corporate Governance

Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. The Council is responsible for ensuring that its business is conducted in accordance with the law & proper standards and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. It also refers to its duty under the Local Government Act to make arrangements to secure continuous improvement in the way in which its functions are exercised.

Corporate Plan

A statement made by a Local Authority setting out its long-term aims for the community it serves, the organisational aims of the Council and the main values which underpin its work for the community.

Council Tax

A local tax based on the capital value of residential properties as determined by the Valuation Office, a branch of HM Revenues and Customs. The level of Council Tax

set by an Authority for a particular year will be broadly determined by its expenditure on General Fund services less other income, use of Council reserves and government grant.

Council Tax base

A figure calculated annually to represent the number of dwellings over which the Council Tax for the following financial year may be collected. All dwellings within the Borough are valued by the Valuation Office Agency (an agency of HM Revenues and Customs) and classified into one of eight bands (A to H), each of which is expressed as a proportion above or below the value of Band D. The Council Tax base is the number of dwellings expressed in terms of a Band D average, after making allowance for the cost of Council Tax support, other discounts and losses on collection. When the Council sets the level of Council Tax for that year, it is expressed as an amount due per Band D, equivalent properties.

Creditor

A person or body to whom the Council owes money.

Debtor

A person or body who owes the Council money. The debt may derive from a number of sources such as Council Tax, Business Rates or rent arrears, rechargeable works or where an account has been rendered for a service provided by the Council.

Earmarked Reserves

See "Reserves"

Estimates

The amounts which are expected to be spent, or received as income, during an accounting period. The term is also used to describe detailed budgets which are being prepared for the following financial year or have been approved for the current year. The "original estimate" for a financial year is that approved as part of the budget prior to the start of that year and the "revised estimate" is an updated revision for that year.

External Audit

An independent examination of the activities and accounts of local authorities to ensure the accounts have been prepared in accordance with legislative requirements and proper practices and to ensure the Authority has made proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Fees and charges

Charges made to the public for Council services and facilities.

Financial Regulations

That part of the Council's Constitution which provides an approved framework for the proper financial management of the Authority.

Financial year

The period of twelve months commencing on 1 April.

Forward financial forecast

The estimated value of a revenue budget head for the two financial years immediately following the budget year, or the totals of such estimates. The forecast conveys no authority to spend, and is made for financial planning purposes only.

General Fund

The revenue fund of the Council covering day-to-day expenditure and income on services. The net cost on this account is met by Council Tax.

Housing Business Plan

A document setting out the Authority's purpose or mission as a social housing landlord, its objectives and standards for the service, and a plan demonstrating over the short, medium and long-term how those objectives will be achieved. Of particular importance are the Council's strategies in relation to investment, management and maintenance. The Business Plan is complemented by a Housing Strategy document.

Housing Revenue Account

The revenue account covering day-to-day expenditure and income arising from the provision of Council housing. Whilst technically part of the General Fund, the debits and credits are defined in statute and any balance on the account is only available for spending on the housing stock. Activities relating to the strategic housing function, as opposed to the landlord function for the Council's own housing stock, are accounted for in the General Fund outside of the Housing Revenue Account.

In Consultation With

For the purposes of the Financial Regulations the meaning of 'In Consultation With' means that the officer and member will be in agreement. Where there is disagreement it will be referred to committee.

Insurance Pool

A fund which provides for all insurance cover for the Council. Premiums are charged to the revenue accounts of services and credited to the pool. The pool then reinsures some risks with external insurers while retaining others. The balance on the pool at any time is one of the Council's earmarked reserves.

Internal Audit

Internal Audit is an independent, objective assurance and consultancy activity designed to add value and improve an organisations operation. It helps the organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

Inventory

A detailed listing of all goods, materials, furniture and equipment in the ownership or use of a particular service, other than those held in stocks and stores records. Inventories are normally maintained in sufficient detail as to description, location, age, value etc. to enable any material loss arising from a fire, theft or other event to be identified and to support any insurance claim.

Investment Strategy

A statement of policies for determining the type, value and length of investments that the Council will use to place its surplus funds and also for determining appropriate third parties with whom these investments will be placed.

Lead Member

The lead member reference is usually referring to the chair of the Finance, Assets, Investments and Recovery Committee, or the chair of the appropriate committee.

Leasing

A method of acquiring the use of capital assets, (normally, but not exclusively), through the payment of a rental sum for a period of years. If the arrangement is for vehicles, plant and equipment, the ownership of the asset remains with the leasing company and the annual rental is charged directly to the Council's revenue accounts. If the lease (or other agreement) is in relation to real estate/property (i.e. land or buildings or rights associated) then the method of treatment of the costs may vary depending on the length of the agreement and whether a premium (lump sum) is paid and/or an annual rental/fee. No agreement relating to property or rights over property must be entered into (either taking or granting) without the agreement of the Section 151 Officer.

Local Councils

Term used in these regulations to refer to Parish Councils, Town Councils and Village Councils.

Medium Term Financial Strategy (MTFS)

The Medium Term Financial Strategy (MTFS) identifies how the Council intends to structure and manage its available resources over the medium term (current plus 3 years), and to ensure that resource allocation is aligned with and supports Council priorities'. It is updated and approved annually as part of the budget process.

Members' Allowances

A scheme of payments to elected Members of the Council in recognition of the duties and responsibilities assumed by them.

Precept

The amount that Councils and certain other public authorities providing services within Brentwood Borough require to be paid from the Collection Fund to meet the cost of their services.

Prudential Indicators

The Prudential Indicators are designed to support and record local decision making regarding capital investment. The CIPFA 'Prudential Code for Capital Finance in Local Authorities' requires each Local Authority to agree and monitor 17 mandatory prudential indicators.

Reserves

A Council's accumulated surplus income in excess of expenditure. Reserves are available at the discretion of the Council to meet items of expenditure in future years

and may be earmarked or held for general purposes. An example of an earmarked reserve is the Insurance Pool.

Revenue

A term used to describe the day-to-day costs of running Council services and income deriving from those services. It also includes however charges for the repayment of debt, including interest, and may include direct financing of capital expenditure.

Risk

Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted action, event or occurrence.

Risk management

Risk management is the adoption of a planned and systematic approach to the identification, evaluation and management of risk and opportunity.

Risk Management Policy

This is approved by the responsible Member following review by the Audit & Scrutiny Committee endorsing the commitment of the Council to effective risk management and sets out the responsibility of Members, Corporate Directors/Managers and all staff for the identification, control and reduction of risk and the containment of loss in all aspects of their activities.

Supplementary estimate

The approval of an increase in the level of a particular budget head, or the establishment of a new budget head, under the procedure laid down in Section 7 of these Regulations. Where an existing budget head is involved, a supplementary estimate would not normally be approved where an appropriate virement was available.

Treasury Management

The management of the Authority's cash flows, its borrowings and its investments, the management of the associated risks, and the pursuit of the optimum performance or return consistent with those risks. It includes the setting of Prudential Indicators and monitoring compliance with them.

Treasury Management Policy Statement

A statement approved by the Full Council from time to time setting out the parameters within which treasury activities are to be managed.

Treasury Management Strategy

The strategy for the treasury management activities to be adopted for a particular financial year as approved by the Full Council within the parameters set by the Treasury Management Policy Statement. The strategy needs to be flexible enough to allow the Section 151 Officer to respond appropriately to changing circumstances during the course of the year to the best advantage of the Council.

Virement

The transfer of budget provision from one budget head to another, under the procedure laid down in Section 7 of these Regulations. Virement decisions apply to both revenue and capital expenditure heads, and between expenditure and income, and may include transfers from contingency provisions. Virements may not however be approved between capital and revenue budget heads. Virements may be approved by Officers within the limits specified in Section 7 of the Financial Regulations.

Write off

The action taken to charge to the Council the amount due from some external party which has been found to be irrecoverable from that party. Whilst the sum remains due to the Council in law, it will no longer be shown as outstanding in the Council's accounts.

PART 4.6 RISK MANAGEMENT AND CONTROL OF RESOURCES

1. Introduction

- 1.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation.
- 1.2 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This shall include the proactive participation of all those associated with planning and delivering services.

Risk management

- 1.3 Audit and Scrutiny Committee is responsible for reviewing the Council's Insurance and Risk Management Strategy and for reviewing the effectiveness of risk management.
- 1.4 The Corporate Director - Resources is responsible for preparing the Council's Insurance and Risk Management Strategy and for promoting it throughout the Council.

PART 4.7 - STANDING ORDERS RELATING TO CONTRACTS

1. Introduction

- 1.1 Brentwood Borough Council is committed to developing its Procurement Strategy and to raising organisational awareness of its importance.
- 1.2 Procurement decisions are among the most important decisions the Council will make because the money involved is public money, and the Council is concerned to ensure that high quality goods, works and services are provided. Efficient use of resources in order to achieve best value is therefore imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.3 For these reasons, it is a disciplinary offence to fail to comply with Contract Standing Orders. Employees have a duty to report breaches to an appropriate senior manager.
- 1.4 The Contract Standing Orders lay down the minimum requirements. A more detailed procedure may be appropriate for a particular contract. If there is any doubt as to how to undertake any procurement then the officer must contact the Procurement Officer to seek guidance.
- 1.5 A contract includes the following:
 - (a) any contract for goods, works or services, including disposals;
 - (b) any order for goods, works or services;
 - (c) a grant given or received by the Council;
 - (d) a contract managed by consultants;
 - (e) a contract appointing consultants;
 - (f) any partnership arrangement;
 - (g) contracts relating to the disposal or purchase of land and buildings;
 - (h) any lease agreements for property and goods.
- 1.6 Both purchasing and disposal procedures must:
 - (a) achieve best value for public money spent;
 - (b) be consistent with the highest standards of integrity;
 - (c) ensure fairness in allocating public contracts;
 - (d) comply with legal requirements;
 - (e) ensure that non-commercial considerations do not influence any contracting decision;

- (f) support the Council's corporate and service aims and policies;
- (g) comply with the Council's Procurement Strategy;
- (h) comply with Financial Regulations, Health and Safety, Environmental and Equal Opportunities (Diversity) requirements;
- (i) be able to demonstrate that the Council's interests have not been prejudiced or exposed to undue or unmanaged risks.

2. **Scope**

2.1 These Standing Orders are made under the provisions of section 135 of the Local Government Act 1972 and govern the making of contracts for and on behalf of the Council.

2.2 These Standing Orders apply to:-

- (a) all contracts made and to all orders placed by, for or on behalf of the Council for the procurement, hire and commissioning of goods, services and works including where the Council is acting on behalf of other public bodies;
- (b) all staff of the Council;
- (c) any person or organisation engaged to manage a contract or undertake work that involves procurement on behalf of the Council. In each case the requirement to comply with the Regulations is to be included in the terms of engagement;
- (d) the selection of sub-contractors where these are nominated by the Council under a main contract.

2.3 Minor amendment to these Contract Standing Orders may be made by the Section 151 Officer. Any substantial or material amendment shall on the advice of the Monitoring Officer be referred to Full Council.

3. **Responsibility of Staff, Corporate Directors/Managers**

Within this framework:-

3.1 **Staff**

3.1.1 Every officer dealing with contracts must have authority from their Corporate Director/ Manager to do so. This can be in their job description or in written delegated authority from their Head of Service or the Chief Executive or the Section 151 Officer through the financial scheme of management delegation. An Authorised Signatory List will be kept and maintained by the Procurement Officer.

- 3.1.2 Staff responsible for purchasing and disposal must comply with Contract Standing Orders, all relevant procedures contained in the Council's Financial Regulations and the Council's Code of Conduct together with all UK and European legal requirements. Where there is conflict between these Standing Orders and any binding rule of law, the law must prevail.
- 3.1.3 Only staff with authorised approval can sign contracts in accordance with their authorisation limits.
- 3.1.4 Staff **MUST** comply with the guidance in the Contract Standing Orders.
- 3.1.5 Staff **MUST** use any relevant Corporate Contract already in place.
- 3.1.6 Staff must keep records to show a clearly documented audit trail. It will be the Authorised Officer's role to provide the contract details and the Procurement Officer's role to ensure that those details are recorded on the Contracts Register. A copy of all contracts to be kept by the Authorised Officer or Corporate Director/Manager.
- 3.1.7 Each procurement exercise which results in a contract will be managed throughout the procurement process and during the life of the contract by an appropriately skilled officer appointed by the relevant Corporate Director/Manager. All such contracts will be actively managed against clear outcomes and objectives. Failure by any contractor to meet such outcomes and objectives shall be immediately brought to the attention of the appropriate Corporate Director/Manager, who shall take whatever action he deems necessary to ensure that so far as possible performance targets are achieved.
- 3.1.8 All staff involved in procurement shall ensure that records of actions and decisions at all stages of the procurement process will be maintained and made available for inspection when required by Internal and External Audit. Rectification action will be taken within the terms of the contract where performance targets are not being met.
- 3.1.9 Staff must ensure that agents and consultants acting on their behalf comply with the requirements referred to in Contract Standing Orders 3.1.2 above. Such consultants must not make any decision as to whether to award a contract or who a contract should be awarded to.
- 3.2 Corporate Director/Manager **must:**
 - 3.2.1 Ensure they have the delegated powers for the contract and that the project has the appropriate policy approval.
 - 3.2.2 Ensure that there is full budgetary provision (including any maintenance and other charges) for the contract and that the sources of funding are fully detailed and agreed before starting the contract process.
 - 3.2.3 Ensure that no tender is accepted where it exceeds the approved budget/cash limit by more than **10%** unless prior written approval is obtained from the

Council's Section 151 officer.

- 3.2.4 Ensure that expenditure is fully contained within the approved budget/cash limit and secured.
- 3.2.5 Ensure that they have issued appropriate staff with written delegation of the role that they may take in the contracting process on behalf of the Council.
- 3.2.6 Ensure that their staff comply with the Contract Standing Orders.

4. **Procurement Guidance**

- 4.1 Procurement guidance shall be in electronic form on the Council's Intranet. The guidance will contain all Council documents which are relevant to and assist with the procurement process.
- 4.2 The Section 151 Officer will review the guidance as required. No alteration will be made to the guidance unless agreed by the Section 151 Officer.

5. **Procurement Principles**

The Council will:-

- 5.1 Base the procurement of its requirements on the principles of best value to ensure that it achieves efficiency, effectiveness and value for money.
- 5.2 Take a long term strategic view of how it procures its requirements including the potential for alternative methods of service delivery, innovative funding methods and partnership working.
- 5.3 Expect that externally sourced requirements will be procured as a result of a competitive process unless there are compelling or practical reasons to the contrary.
- 5.4 Ensure that sustainability is an important criterion in any procurement activity along with Equality & Diversity objectives.
- 5.5 Where appropriate develop procurement on a partnering basis in which both the Council and the supplier seek to achieve continuous improvement, and maximise mutual benefit through longer term clearly worded contracts. These contracts will be based on measurable outcomes and performance that define the obligations of both parties.
- 5.6 Where appropriate seek to work with others, and through legitimate consortia in the procurement of its requirements in order to widen the scope of its experience and focus expertise, maximise purchasing power and harness economies of scale.
- 5.7 Respect and value good employment practice and comply with all obligations imposed upon the Council, by relevant employment legislation and seek to

ensure its provider markets meet the same standards.

6. **Code of Ethics**

- 6.1 All Employees of Brentwood Borough Council are required to uphold this code, and to seek commitment to it by all those with whom they engage in their professional practice. Council staff are expected to adopt an ethical purchasing policy based on the principles of this code and to raise any matter of concern relating to business ethics at an appropriate level.
- 6.2 All Employees are already required to comply with the Staff Code of Conduct which contains provisions in respect of relationships with contractors and other related matters.
- 6.3 Appropriate action will be taken against anyone who is found to have breached this code or the Staff Code of Conduct. Advice on any aspect of the code is available from the Procurement Officer.
- 6.4 All employees of Brentwood Borough Council are expected to:
 - (a) maintain the highest standard of integrity in all business relationships;
 - (b) reject any business practice which might reasonably be deemed improper;
 - (c) never use their authority or position for personal gain;
 - (d) enhance the proficiency and stature of the Council by acquiring and applying knowledge in the most appropriate way;
 - (e) foster the highest standards of professional competence amongst those for whom they are responsible;
 - (f) optimise the use of resources for which they have influence over for the benefit of the Council;
 - (g) comply with both the letter and the intent of agreed contractual obligations;
 - (h) declare any personal interest that might affect, or be seen by others to affect, impartiality or decision making;
 - (i) ensure that the all information given out in the course of their work is accurate;
 - (j) respect the confidentiality of information received and never use it for personal gain;
 - (k) strive for genuine, fair and transparent competition;
 - (l) not accept inducements or gifts, other than items of small value such as

business diaries or calendars;

(m) always to declare the offer or acceptance of hospitality and never allow hospitality to influence a business decision;

(n) remain impartial in all business dealing and not be influenced by those with vested interests.

7. **Aggregation and Disaggregation**

7.1 Where the Council requires a single set of goods, works or services to be provided the total contract value is made up of the total value of the smaller sums. This is known as aggregation.

7.2 A contract value shall not be divided up into its constituent smaller parts so as to deliberately avoid placing a contract for the full value with one contractor or avoid the requirements set out in the EU Procurement Regulations. It is an offence under the EU Procurement Regulations to disaggregate the value of a contract so as to deliberately avoid the EU Procurement Regulations.

8. **Requirements to Ensure Competition**

8.1 Collaborative frameworks and partnership options must be considered in principle as part of the procurement process regardless of the estimated value of the contract.

8.2 **Thresholds**

8.2.1 **Estimated contract value up to £10,000**

No specific written quotation is required. The aim of the officer responsible for the contract shall be to obtain the best value for money for the Council. Any Authorised Officer can approve a contract.

8.2.2 **Estimated contract value between £10,000 and £50,000**

Three written quotations are required and the contract opportunity must be provided to the Procurement Officer so that it can be advertised on the Council's website. Collaborative framework agreements must also be considered. The aim of the officer responsible for the contract shall be to obtain the best value for money for the Council. The Corporate Director/Manager must sign/approve the contract and the relevant Chair should be advised of any quotes over £25,000 prior to the contract being awarded

8.2.3 Estimated contract value between £50,000 and the current OJEU threshold of £189,330 for goods and services, and £4,733,252 for works (due to be revised January 2018).

As per 8.2.2 above but a formal tendering process utilising the e-procurement portal must be undertaken. The Chief Executive or Section 151 Officer must

sign/approve the contract.

In either case the Officer must use the Council's conditions of contract or appropriate professional institute conditions of contract or conditions of contract which have been approved by the Monitoring Officer.

8.2.4 **Estimated contract value over OJEU Threshold**

Contracts must be advertised according to EU procurement regulations. The officer responsible for the contract **must**, before starting the contract process, obtain advice from the Procurement Officer.

Where it can be demonstrated that there are insufficient suitably qualified contractors to meet the competition requirement set out above all suitably qualified contractors should be invited so far as is practical.

9. **Competitive Tendering Process**

9.1 Where the total value of the contract is more than **£10,000**, staff must ensure there is sufficient competition and that the contract is appropriately advertised. Any tender or quotation process must ensure that potential candidates provide sufficient detail to enable staff to determine whether they:

9.1.1 Are financially stable.

9.1.2 Have appropriate technical ability to undertake the sort of contract they wish to be considered for.

9.1.3 Are able to check their health and safety, environmental, equality and diversity and other records.

9.2 Where the total value of the contract is more than **£10,000** and there is no corporate contract, staff must invite either quotations or tenders by public advertisement. Public advertisement **must** include advertising the contract on the Council's website.

9.3 A period of no less than two weeks must be allowed for potential tenderers to receive and submit their completed quotation or tender for any Council contract. Where EU Procurement regulations are applicable relevant time limits will apply.

10. **Partnerships**

10.1 Staff considering a partnership arrangement must, before starting any contract process, obtain advice from the Monitoring Officer and the Procurement Officer. The Monitoring Officer will advise on the partnership options available to ensure a workable solution including appropriate governance arrangements.

11. **Waiver of Contract Procedures**

11.1 A waiver under this Section allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Section 8. No waiver can be used if the EU Procurement Rules apply ie the estimated value of the contract exceeds the thresholds prevalent at the time.

11.2 All waivers must be signed by the Officer and countersigned by the Chief Executive, the Section 151 Officer or the Monitoring Officer. Only one signature is required.

11.3 **Waivers will be granted in the following circumstances only:**

11.3.1 The subject matter of the contract can only be supplied by one specialist contractor.

11.3.2 There is an unforeseen emergency involving immediate risk to persons, property or serious disruption to Council services.

11.3.3 The contract is an extension to an existing contract and a change of supplier would cause technical difficulties, diseconomies of scale or significant disruption to Council services.

11.4 **In addition to the signature of the Chief Executive, Section 151 Officer or the Monitoring Officer**

11.4.1 The Procurement Officer must be consulted where the purchase is to be made using collaborative procurement arrangements i.e. with another local council, government department, statutory undertaking or public service purchasing consortium.

11.4.2 The Procurement Officer must be consulted prior to commencing any procurement process using any Government Procurement Service framework agreement, or, any other local or national framework agreements to ensure best fit for the Council's requirements.

12. **Requirements for All Contracts**

12.1 All contracts must be in writing.

For all contracts with a value of over **£50,000**, contract managers must:

(a) maintain a risk register during the contract period;

(b) undertake appropriate risk assessments;

(c) for identified risks, ensure contingency measures are in place;

(d) ensure critical support and maintenance arrangements are documented in the specification in order to avoid costly post-tender negotiation.

12.2 Members of the Council may have involvement in commercial transactions and their involvement in such matter is covered by the Council's Protocol on Member Involvement in Commercial Transactions.

12.3 Business continuity is critical to the successful delivery of council services. The officer must ensure that appropriate business continuity arrangements are in place and fully tested to enable services to be delivered in the event of any unforeseen incident occurring.

12.4 Every contract must comply with Financial Regulations and any corporate procurement guidance, including EU Procurement Regulations, where appropriate.

13. **Framework agreements**

13.1 The term of any framework agreements may be for any period but in the majority of cases they must not exceed 4 years (EU Procurement Rules requirement). There are certain exceptions to this rule and advice should be sought from the Procurement Officer before proceeding down this route.

14. **Award criteria**

14.1 Staff must ensure that award criteria selected are appropriate to the contract and that these are signed off by the appropriate officer.

14.2 Staff must design award criteria to ensure best value for money for the Council. Particular emphasis must be placed on cost, quality and timeliness of the service or goods.

14.3 When evaluating tender submissions the minimum weighting to be used for cost must be 40%. There will be exceptions to this e.g. where the terms of a framework agreement state a different weighting. In any event approval must be sought from the Section 151 Officer to use a weighting below 40% for cost.

14.4 The pre-agreed award criteria for assessing the bid must not be changed after tender proposals have been opened.

15. **Invitations to Tender/Quotations**

15.1 The relevant officer must ensure that Invitations to Tender (ITT) and Invitations to Quote (ITQ) include a specification. The specification must describe clearly the Council's requirements in sufficient detail to ensure the submission of competitive bids may easily be compared.

15.2 The Invitation to Tender/Quote must state that the Council is not bound to accept any quotation or tender.

15.3 All candidates invited to tender or quote must be issued with the same

information at the same time and subject to the same terms. Any additional information or amendments to the specification must be provided to all candidates on the same basis.

- 15.4 Staff who undertakes procurement of goods and/or services and works with a total value of less than **£50,000** must ensure that they follow the procedures laid out in Section 8.
- 15.5 In cases where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements set out in Section 8 (above) all candidates must be invited to bid.
- 15.6 The Invitation to Tender/Quote must specify the award criteria, any weighting to be used and the procedure to be adopted.
- 15.7 All Invitations to Tender/Quote must be advertised on the Council's website.

16. **Submission, Receipt and Opening of Tenders/Quotations**

- 16.1 Candidates invited to bid must be given adequate time in which to submit a quotation or tender. At least two weeks must be allowed for submission of tenders. Note that the EU Procurement Regulations set out specific time periods.
- 16.2 All tenders submitted to the Council, should be undertaken using the e-tendering system, or, in a sealed, plain envelope marked 'TENDER'. There must be no indication on the outside of the envelope of who the sender is. The envelope should be clearly addressed to the Procurement Officer and should indicate the subject of the contract. The e-tendering system is the preferred option and approval to use the envelope system should be sought from the Section 151 Officer.
- 16.3 The Procurement Officer shall be responsible for the safekeeping of tenders until opening. Receipt of each tender must be initialled and dated by the appropriate receiving officer. This must include the Procurement Officer and at least one Council Member or appropriate individual as approved by the Section 151 Officer.
- 16.4 A record must be made at the time of opening the tenders showing the name and address of the tenderers, the date and time of opening and the amount tendered (where possible). All those present at the tender opening shall sign the record as evidence that it is correct.
- 16.5 In the event of a marked or late tender then the Procurement Officer must be advised and a decision made by the Monitoring Officer on whether the tender can be accepted.

17. **Clarification Procedures**

- 17.1 After the tender opening it may become apparent that one or more of the potential contractors who have submitted bids have misinterpreted the specification. If it is clear that this is a result of an error or ambiguity in the specification the responsible officer must consult the Procurement Officer as to whether all the contractors should be provided with revised specifications and given the opportunity to revise their tender.

18. **Tender Evaluation**

- 18.1 Confidentiality of tenders/quotations and the identity of tenderers must be maintained at all times. Information about one tenderer's response must not be given to another tenderer.
- 18.2 This includes the situation where one department of the Council is tendering for a contract with another department of the Council. In such a situation, there must be a clear division between the two parties, with no advantage ensuing for the internal candidate.
- 18.3 Staff must evaluate and award the contract in accordance with the agreed award criteria in the Invitation to Tender/Quote. The officer responsible for evaluating the tenders should complete a tender evaluation sheet recording the details of the tenders and the process for selecting the preferred contractor. There is also a form that requests the Monitoring Officer to seal the contract.
- 18.4 The reasons for the selection of the successful candidate should be recorded on the evaluation report. The officer carrying out the evaluation must sign the report. Authorisation to award the contract must be given in writing by an officer who has written delegated authority to do so.

19. **Contract Documents**

- 19.1 Every contract must be recorded in writing, and must state clearly:
- (a) What is to be supplied.
 - (b) Payment provisions (amount and when).
- 19.2 All contracts with a value over £50,000 must adhere to the Council's standard terms and conditions where possible. Approval of any other alternative terms and conditions should be sought from the Section 151 Officer.

20. **Race, Disability and Gender Equality**

- 20.1 Staff must note that the Race, Disability and Gender Equality duties require all statutory agencies to eliminate discrimination and promote equality of opportunity. Through a variety of specific duties, the Council is required to ensure services are targeted on the most vulnerable sections of the community and that inclusion/participation rates amongst these groups are increased.

Recent access to services legislation makes discrimination on the grounds of religion and belief or sexual orientation illegal.

- 20.2 Legislation such as the Disability Discrimination Act and Race Relations (Amendment) Act etc, make it clear that when the Council contracts, it still retains responsibility for ensuring that services are provided in an appropriate and non discriminatory way. This requires consideration of equality to be built into all the Council's procurement and contract management processes.
- 20.3 Any partner organisations, consultants or organisations acting on behalf of the Council will be required to ensure that all policies relating to Race, Disability and Gender Equality are fully complied with. Checks may be made to ensure that these organisations are aware of and addressing equality and diversity legislation.

21. **Bonds and Parent Company Guarantees**

21.1 A bond is an insurance policy. If the contractor does not do what is agreed under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from a contractor's failure. The officer must consult the Section 151 Officer as to whether a bond is appropriate. Generally a bond will be required:

- (a) Where the total value exceeds **£500,000**;
- (b) Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract.

21.2 A parent company guarantee is a contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead. The Section 151 Officer must be consulted when:

- (a) a candidate is a subsidiary of a parent company, the officer does not think a parent company guarantee is necessary and any of the following conditions are satisfied;
- (b) the total value exceeds **£50,000**;
- (c) award is based on the evaluation of the parent company;
- (d) there is some concern about the financial stability of the candidate.

22. **Award of Contract**

22.1 All candidates must be notified in writing, simultaneously and as soon as possible, as to the outcome of the tender exercise.

22.2 Where a full EU Procurement Regulations' compliant tender exercise has been carried out, a statutory minimum standstill period of 10 days must apply between the electronic notification to the tenderers of the award decision and the successful candidate signing the contract. 15 days must apply if notification is given by post.

22.3 The contract can only be signed by an officer who has the authority to do so.

23. **Sealing a Contract**

23.1 Where a contract has a bond or guarantee or is over the OJEU threshold, it shall be sent to the Monitoring Officer with a completed Sealing Form and shall be sealed on behalf of the Council.

24. **Prevention and Detection of Corruption**

24.1 All staff must comply with the Council's Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under EU Procurement Regulations.

24.2 The following clause must be put in every written council contract:

24.2.1 The Council may terminate this contract and recover all losses if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following:

- (a) Offer, give or agree to give to anyone any inducement or reward in respect of this or any other council contract (even if the contractor does not know what has been done); commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972;
- (b) commit any fraud in connection with this or any other council contract whether alone or in conjunction with council members, contractors or employees;
- (c) violate the Council's Anti-Fraud Strategy;
- (d) violate the Council's Anti-Bribery Policy.

24.3 Any clause limiting the Contractor's liability shall not apply to this clause.

24.4 All staff and suppliers are expected to adhere to the Council's Anti-Fraud Strategy. The Council has a zero tolerance policy on fraud and has a confidential reporting mechanism (known as whistle blowing) for genuine reporting of malpractice.

25. **Managing Contracts**

25.1 The Corporate Director/Manager is responsible for naming contract managers for all new contracts. All contracts must have a named contract manager for the entirety of the contract.

26. **Contracts Register**

26.1 The Council is required to maintain a Contracts Register. It is the responsibility of the relevant officer to provide all contract details to the Procurement Officer. It is the Procurement Officer's responsibility to ensure that all contracts are included on the Council's Contract Register.

27. **Business case, risk assessment and business continuity planning**

27.1 An appropriate business case must be prepared for all procurements over **£10,000**. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

27.2 For all contracts with a value of over **£50,000**, contract managers must:

- (a) maintain a risk register during the contract period;
- (b) undertake appropriate risk assessments;
- (c) for identified risks, ensure contingency measures are in place;
- (d) ensure critical support and maintenance arrangements are documented in
- (e) the specification in order to avoid costly post-tender negotiation.;
- (f) ensure that the relevant Chair of the regulating committee for their service or in its absence the Finance, Assets, Investments and Recovery Committee is aware of the existence of such contracts and regularly inform them on such matters.

27.3 Members of the Council may have involvement in commercial transactions and their involvement in such matter is covered by the Council's Protocol on Member Involvement in Commercial Transactions.

27.4 Business continuity is critical to the successful delivery of council services. The officer must ensure that appropriate business continuity arrangements are in place and fully tested to enable services to be delivered in the event of any unforeseen incident occurring. The requirement for a Business Continuity Plan must be an integral element of the Council's specification.

28. **Post Contract Monitoring, Evaluation and Review**

28.1 All contracts which have a value higher than the EU Procurement Rules'

threshold limits, or, which are high-risk, are to be subject to regular formal review with the contractor.

28.2 During the life of the contract the officer must monitor in respect of:

(a) performance;

(b) compliance with specification and contract;

(c) cost;

(d) any value for money requirements;

(e) user satisfaction and risk management.

29. **Termination of Contract**

29.1 An officer shall not terminate a contract with a value over **£10,000** prior to its expiry date without first obtaining advice from the Monitoring Officer.

29.2 Where there is an intention to terminate a contract early, the Officer shall report the reasons for this termination to the Monitoring Officer at the earliest opportunity.

29.3 Staff must seek advice from the Monitoring Officer if payments to a contractor are to be withheld or there is any other problem with the contract which may result in possible early termination.

30. **Appointment of Consultants to Provide Services**

30.1 The Council uses the expertise of specialist consultants to undertake a range of procurement exercises on behalf of the Council. Staff must ensure that such consultants are fully briefed as to Contract Standing Orders:

30.1.1 Consultants, whether technical or professional, must be selected, and any commissions awarded, in accordance with the Contract Standing Orders.

30.1.2 The engagement of a consultant shall follow the agreement of a 'brief' that describes the scope of the services to be provided and shall be subject to completion of a formal contract.

30.1.3 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant director for the duration of the contract.

31. **Technical Amendments**

31.1 The Section 151 Officer has the delegated authority to make technical

amendments, when necessary, to ensure that these Contract Standing Orders remain up to date and consistent with legislation, the Council's organisation, structure and generally with best practice. These amendments shall be subject to consultation with the Monitoring Officer and Procurement Officer.

- 31.2 Financial thresholds as set out in Section 8 may only be altered or amended following consultation and agreement of the Finance and Resources Committee and the Section 151 Officer.

32. **Asset Disposals (Other than Land or Property)**

- 32.1 A check should be made to determine whether there is a corporate policy or contract for the disposal of the stock (e.g. IT equipment should be disposed of through the ICT team). If a policy or contract is in place, this must be used.
- 32.2 Office equipment and furniture should first be advertised on the "Office Equipment" section of the Intranet, and communicated to schools and other establishments of the Council. Where this method of disposal is unsuccessful, the goods may be sold according to the paragraphs below.
- 32.3 Any disposal must be authorised by the Section 151 Officer or Chief Executive.
- 32.4 Disposal must be either by public auction or by obtaining three quotes from suitable contractors.
- 32.5 The responsible officer for the disposal must ensure that the Council is receiving value or money, and that the contractor used is reputable and evidence of this must be retained.
- 32.6 Items for disposal must not be given to any member of staff without suitable authorisation from the Section 151 Officer or Chief Executive.

Definitions Index

Agent	A person or organisation acting on behalf of the Council or on behalf of another organisation.
Award Criteria	The criteria by which the successful quotation or tender is to be selected.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. (Note: This terminology has now in many instances been superseded with Value for Money).
Bond	If the contractor does not meet the requirements of any contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value).
Business Continuity Plan (BCP)	A BCP is how an organisation prepares for future incidents that could jeopardise the organisation's core mission and its stability. Could include local incidents like building fires, regional incidents like floods, epidemics or national incidents such as a pandemic.
Code of Conduct	The Council's code regulating conduct of staff.
Committee	A committee, which has power to make decisions for the Council i.e. a joint committee with another local council but not a scrutiny committee.
Constitution	The constitutional document approved by the Council which: allocates powers and responsibility within the Council and between it and others; delegates authority to act to Committees and staff; regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.
Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.

Contracting Decision	Any of the following decisions: composition of approved lists; withdrawal of Invitation to Tender; whom to invite to submit a quotation or tender; short listing; award of contract; any decision to terminate a contract.
Corporate Contract	A contract let by the Council which provides goods or services for more than one service eg insurance.
Council	For the purposes of these Rules “Council” refers to Brentwood Borough Council (BBC).
OJEU Threshold	The contract value at which the EU public procurement legislation must be applied.
Evaluation Report	A report produced by the officer detailing the outcome of the evaluation process undertaken, from which a recommendation is put forward for approval by a director.
High Profile	A high-profile purchase is one which could have an impact on functions integral to Council service delivery including publicity and public interest should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council’s part should it fail or go wrong.
High Value	A high-value purchase is one where the value is greater than that of the EU threshold values.
Invitation to Tender	Invitation to Tender documents in the form required.
Key Decision	A key decision is a non statutory decision which is likely to: result in the Council incurring expenditure which is, or, the making of savings which are significant having regard to the Council’s budget for the service or function to which the decisions relates. The financial threshold set by the Council for key decisions is £100,000 for goods and services and £500,000 for works. Be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the Council.

**Corporate Director/
Manager**

The officer's immediate Corporate Director/Manager or, the officer designated by the Chief Executive to exercise the role reserved to the line manager by these Contract Procedures.

**Nominated Suppliers
and
Sub-contractors
Non-Commercial
Considerations**

Those persons specified in a main contract for the discharge of any part of that contract.

Except as provided below, the following matters are non-commercial considerations:

(a) the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ("workforce matters");

(b) whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only;

(c) any involvement of the business activities or interests of contractors with irrelevant fields of government policy;

(d) the conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ("industrial disputes");

(e) the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors;

(f) any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;

(g) financial support or lack of financial support by contractors for any institution to or from which the Council gives or withholds support;

(h) use or non-use by contractors of technical or professional services provided by the Council under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined above in paragraphs (a) and (d) of this definition, cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Rules 1981("TUPE") may apply.

Officer

The officer designated by the Chief Executive to deal with the contract in question.

OJEU	OJEU - the Official Journal of the European Union This is the publication in which all contracts from the public sector which are valued above EU thresholds must be published.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
Procurement Officer	The Council's corporate procurement officer charged with providing strategic direction, support and advice to secure value for money in the Council's procurement activities.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities for the next 2 - 3 years.
Purchase Card	A card issued to an officer or member by the Council, to be used for purchasing goods or services of low value or for one-off purchases.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	A contract to which these Contract Procedures apply.
Section 151 Officer	As identified in the Constitution. This person is nominated to deal with the Council's Finances under Section 151 of the Local Government Act 1972.
Tender	A candidate's proposal or offer submitted in response to an Invitation to Tender.
TUPE Transfer of Undertakings (Protection of Employment)	TUPE refers to the Transfer of Undertakings (Protection of Employment) Rules, 1981. Broadly, TUPE rules ensure that the rights of employees are transferred along with the business.
Whistle Blowing Policy	The Public Interest Disclosure Act 1998 encourages individuals to raise concerns about malpractice in the workplace. This policy document makes it clear that employees can raise serious concerns without fear of victimisation, subsequent discrimination or disadvantage. It's intended to encourage and enable employees to raise those concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. The policy applies to all employees and those contractors working for the Council on Council premises. For example, agency staff, builders, and

drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises.

Workforce Matters

Authorities cannot focus on matters classed as non-commercial' considerations as part of the contractual process. However, the restrictiveness of the original definitions was considered too great, and so from 2001 authorities may consider the following matters to the extent that they are relevant to the delivery of best value or for the purposes of a TUPE transfer:

- the terms and conditions of employment by suppliers of their workers or the composition of, the arrangements for the promotion, transfer or training of or other opportunities afforded to, their workforces (section 17(5)(a));
- the conduct of suppliers or workers in industrial disputes between them (section 17(5) (d)). Restrictions on other non-commercial considerations listed in Section 17 of the Local Government Act 1988 remain in place.

Appendix 1 – Request for waiver from competitive tendering process

This form must be completed for all purchases with an estimated value of over £10,000. The contract value must be determined by the maximum potential value of the contract, not the annual figure. If there is an option to extend the contract this must be included.

Completion is not necessary if the purchase is made using a recognised framework. Waivers are not allowed if the contract value is above the European Union threshold, currently £181,302 for goods and services and £4,551,413 for works. (Due to be revised January 2020).

Contract Description	
Contractor	
Purchase Order Number	
Total Contract Value	
Contract Duration	

In accordance with Standing Orders, waivers are allowed under the following circumstances only. Please tick which applies:

<input type="checkbox"/>	The subject matter of the contract can be supplied by one specialist contractor only;
<input type="checkbox"/>	An emergency involving immediate risk to persons, property or serious disruption to Council services;
<input type="checkbox"/>	The contract is an extension to an existing contract and a change of supplier would cause technical difficulties, diseconomies of scale or significant disruption to Council services;
<input type="checkbox"/>	The purchase involves collaborative procurement arrangements with another local authority or government department;
<input type="checkbox"/>	There is any other compelling or practical reason that a competitive exercise should not be run.

Reason for waiver request:

--

List of documents attached to substantiate the Waiver

Name of originating officer requesting Waiver

Department

Date

Approval --- One signature required of either:
Section 151 Officer;
Monitoring Officer;
Chief Executive.

Approved:

Signature:

Name:

Job Title:

Date:

PART 4.8 - STAFF EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment

(a) Declarations.

- (i) The Council will draw up a statement requiring any candidate for appointment as a member of staff to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing member officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a member or a member of staff of the Council will be appointed without the authority of the relevant chief officer or an officer nominated by them.

(b) Seeking support for appointment.

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

2. Recruitment of Head of Paid Service, Monitoring Officer and S.151 Officer and all other Chief Officer

Where the Council proposes to appoint a chief officer the Council will:-

(a) draw up a statement specifying:

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

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

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

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

- 3.1 The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Chief Officer Appointments Sub-Committee.

4. **Appointment of Chief Officers**

- 4.1 The Chief Officer Appointments Sub-Committee will appoint Chief Officers. Where the salary of the postholder exceeds £100,000 per annum the appointment decision will be reserved to the Full Council.

5. **Other Appointments**

- 5.1 (a) **Officers below Chief Officer.** Appointments of Officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee and may not be made by Councillors.

(b) **Assistants to Political Groups (Local Government and Housing Act 1989)**
Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. **Disciplinary action**

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and S.151 Officer may be suspended whilst an investigation takes place into any alleged misconduct by a resolution of the Council at an extraordinary or ordinary meeting. The suspension will be on full pay and last no longer than two months. The Monitoring Officer and s.151 Officer will not be suspended during the period during which they are undertaking a formal investigation under their statutory powers.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those Officers except in accordance with a recommendation in a report made by a designated independent person. A designated independent person is a person so appointed by the Council in accordance with s.28 (7) of the Localism Act 2011.
- (c) **Councillors** will not be involved in the disciplinary action against any Officer below Director level except where such involvement is necessary for any investigation or inquiry into alleged misconduct though the Council's disciplinary capability and related procedures as adopted from time to time may allow a right of appeal to Councillors in respect of disciplinary action.

7. Procedure for **Disciplinary Action Against s.151 Officer, Head of Paid Service and Monitoring Officer**

- 7.1 This procedure applies to the appointment of the Chief Officers Disciplinary and Appeals Sub-Committee (the Panel) to advise the full Council in relation to the dismissal of the Head of Paid Service, the Monitoring Officer or the s.151 Officer ('relevant officers') and has been incorporated into these Rules as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 7.2 The Council must invite independent persons appointed under Section 28(7) of the Localism Act 2011 ("the 2011 Act") to be considered for appointment to the Panel, with a view to appointing at least two independent persons to the Panel.
- 7.3 In paragraph 2, independent person means any independent person who has been appointed by the Council or, where there are fewer than two independent persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- 7.4 The Independent Panel shall consist of the Council's independent persons appointed under section 28(7) of the 2011 Act provided that at least two such independent persons are willing to sit on the Panel. If they are not then, subject to paragraph 5, the Council must appoint to the Panel independent persons who have accepted an invitation issued under paragraph 2, in the following order of priority:
- (a) an independent person who has been appointed by the Council and who is a local government elector in the Council's area;
 - (b) any other independent person who has been appointed by the Council;
 - (c) an independent person who has been appointed by another authority or authorities.
- 7.5 The Council may appoint more than two independent persons.
- 7.6 The Council must appoint the Panel at least 20 working days before the full Council meets to consider whether or not to approve a proposal to dismiss a relevant officer.
- 7.7 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 under the 2011 Act.
- 7.8 The decision to dismiss the Head of Paid Service, the s.151 Officer or the Monitoring Officer is reserved to the Full Council.