

**PART 4**  
**RULES OF PROCEDURE**

Council Procedure Rules  
Access to Information Procedure Rules  
Budget and Policy Framework Procedure Rules  
Cabinet Procedure Rules  
Overview and Scrutiny Procedure Rules  
Financial Regulations  
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Procurement Strategy  
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**PROCEDURE RULES FOR COUNCIL MEETINGS**  
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## **2. ORDINARY MEETINGS OF THE COUNCIL**

Ordinary meetings of the Council will take place in accordance with the timetable of meetings agreed at the Annual Meeting. Ordinary meetings will usually follow the following format –

- (i)** Elect a person to preside if the Chairman and Vice-Chairman are not present.
- (ii)** Receive apologies for absence.
- (iii)** Approve the minutes of the last meeting.
- (iv)** Receive any declarations of interest from Councillors regarding any item on the agenda.
- (v)** Receive any announcements from the Chairman, Leader or Head of Paid Service.
- (vi)** Receive questions, statements and petitions from the public in accordance with the Council's public participation scheme.
- (vii)** Consider motions.
- (viii)** Consider any business specified in the summons to the meeting, including consideration from the Cabinet in relation to the Council's Corporate Plan and policy framework, proposals and recommendations from any Committees.
- (ix)** Consideration of any representations from any of the Area Panels.

The order of business may be varied by –

- (i)** Direction of the Chairman.
- (ii)** A resolution of the Council (moved, seconded and put without comment).





### **3. EXTRAORDINARY MEETINGS OF THE COUNCIL**

#### **3.1 Requesting an Extraordinary meeting**

Those listed below may request the Head of Paid Service to call Council meetings in addition to ordinary meetings –

- (i)** The Council by Resolution.
- (ii)** The Chairman of the Council.
- (iii)** The Monitoring Officer.
- (iv)** Any five Members of the Council if they have signed a requisition presented to the Chairman of Council and he/she has refused to call a meeting within seven days of the presentation of the requisition.

#### **3.2 Business to be Conducted**

The summons for the extraordinary meeting will state the business to be considered. No business other than that stated and urgent items will be considered at the meeting.



#### **4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES**

*(Note: This Procedure Rule does not permit substitutes by Members not in a political group.)*

- 4.1** It is not possible to have substitute Members for Cabinet.
- 4.2** Substitute Members may speak and vote at Committee meetings if they have been appointed as detailed below (and received mandatory training as required by Licensing Committee and Planning Committee).
- 4.3** The Leader or Deputy Leader of a political group may nominate any named Member of his/her group as the substitute Member for a Committee meeting by notifying the Proper Officer or the Meeting Administrator of the name of the substitute and the details of the meeting at which they will be substituting; such notification must be made at least one hour before the start of the relevant meeting. Notification by a Councillor purporting to be the substitute Member will not be accepted.
- 4.4** In the event that the substantive Member of the Committee subsequently attends the meeting the substitute Member must take no further part in the meeting.



**5. DATE, TIME AND PLACE OF MEETINGS  
COUNCIL, CABINET AND COMMITTEES**

*Note: The Chairman of the Cabinet is the Leader of the Council*

**5.1 Date and Time**

The date and time of meetings of the Council, Cabinet and Committees will be in accordance with the timetable of meetings agreed at the annual Council meeting.

**5.2 Calling Special Committee Meetings**

The Chairman or Vice-Chairman of the Council or a Committee or the Leader or Deputy Leader of the Cabinet may call a special meeting of the relevant body at any time.

A special meeting may also be called on the requisition of a quorum of the Council, Cabinet or Committee, such requisition to be submitted to the Proper Officer in writing.

The Proper Officer may summon a special meeting of the Council, Cabinet or Committee upon emergency or special circumstances arising.

**5.3 Business to be conducted at special Committee meetings**

The summons for the special meeting will state the business to be considered. No business other than that stated and urgent items will be considered at the meeting.

**5.4 Alteration of scheduled meeting date**

The date of any scheduled meeting may be altered with the agreement of the Chairman of that Committee provided that not less than seven clear days notice of the amendment can be given to Councillors.



**6. NOTICE OF AND SUMMONS TO MEETINGS  
COUNCIL, CABINET AND COMMITTEES**

- 6.1** The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.
- 6.2** At least five clear days before a meeting the Proper Officer will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of the meeting and specify the business to be transacted, and will be accompanied by such reports as are available





7. **CHAIRMAN OF MEETING**  
**COUNCIL, CABINET AND COMMITTEES**

The person presiding at the meeting may exercise any power or duty of the Chairman for that meeting.



**8. QUORUM  
COUNCIL, CABINET AND COMMITTEES**

**8.1** The quorum of a meeting with the exception of the Standards Committee will be one quarter of the whole number of Members –

Namely:	Full Council	7
	Cabinet	3
	Scrutiny	3
	Planning	4
	Licensing	3
	Audit	3
	Local Development Panel	3

**8.2** The quorum for the Standards Advisory Committee is 5, one of whom must be an independent member, and one of whom must be a Parish/Town Council representative

**8.3** During any meeting if the Chairman counts the numbers of Members present and declares there is not a quorum present then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman; if he/she does not fix a date the remaining business will be considered at the next ordinary meeting.



## **9. PUBLIC SPEAKING RIGHTS AT COUNCIL, CABINET AND COMMITTEES**

### **Note:**

1. *The Council has approved arrangements whereby members of the public may speak at meetings and otherwise contribute to the business of the council.*
2. *West Somerset Council is happy to provide the opportunity for members of the public to make their views known directly to councillors at formal meetings*

- 9.1 Some people may feel strongly about a subject and accordingly may wish to make their views known at the meeting to those who are making decisions or considering local issues
- 9.2 Speeches and written representations can only be made regarding items listed on the agenda.
- 9.3 Anybody wishing to speak at a meeting must inform the Committee Services team by 4 pm on the previous working day before the meeting, unless the Chairman considers that this should be varied for practical purposes subject to any such variance being advertised giving reasonable public notice.
- 9.4 The Chairman of the meeting will invite people who have requested to speak to do so after the relevant report has been presented but before Councillors debate the issue. Where an application is involved the applicant will be the last member of the public invited to speak on the topic.
- 9.5 A three minute time limit applies at all meetings to each speaker subject to the discretion of the Chairman.
- 9.6 Speakers will be invited to direct their comments and statements to the Chairman of the meeting.
- 9.7 Members of the public must not communicate with Councillors during a debate.
- 9.8 If the Chairman of the meeting determines that a response is needed, it will be given either orally at the meeting or a written reply made within five working days of the meeting.
- 9.9 A time limit may be imposed by the Chairman of the meeting if he/she believes that the scheme is being abused.
- 9.10 A limit on the number of speakers and/or a limit on the time for individual speakers may be imposed by the Chairman in the interests of facilitating the proper conduct of Council/Committee business.

- 9.11** Written representations must be received by the Committee Services team at least 24 hours before the start of the meeting.
- 9.12** Written material will be pinned to a notice board in the room where the meeting is to be held at least 30 minutes before the start of the meeting.

## **10. QUESTIONS BY COUNCILLORS COUNCIL, CABINET AND COMMITTEES**

### **10.1 Questions without notice at Council**

A Member of the Council may ask the Leader, relevant Lead Member or Chairman of a Committee any question without notice upon an item of the report or recommendation of the Cabinet or a Committee when that item is being received or is under consideration by the Council.

### **10.2 Questions with notice at Council**

Subject to rule 10.4, a Member of the Council may ask at a Council meeting any one of the persons listed below a question on any matter in relation to which the Council has powers or duties or which affects the district of West Somerset  
as a –

- Chairman of Council
- Lead Member
- The Leader of Council
- The Chairman of any Committee (or in their absence the Vice-Chairman)

### **10.3 Questions on Notice at Committees**

Subject to Rule 10.4, a Member of a Committee may ask the Chairman (of it) a question on any matter in relation to which the Council has powers or duties or which affect the West Somerset District and which falls within the Terms of Reference of that Committee.

### **10.4 Notice of questions**

A Member may only ask a question under Rules 10.2 or 10.3 if either –

- (a) They have given at least 7 working days notice in writing of the question to the Proper Officer; or
- (b) The question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Proper Officer at least one hour before the start of the meeting.

### **10.5 Response to Questions**

An answer may take the form of –

- (a) A direct oral answer.

- (b) Where the desired information is in a publication of the Council or other published work a reference to that publication.
- (c) Where the reply cannot conveniently be given orally, a written answer may be circulated after the meeting.

#### **10.6 Supplementary Question**

A Member asking a question under Rule 10.2 or 10.3 may ask one supplementary question without notice, of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.



**11. MOTIONS ON NOTICE  
FOR COUNCIL AND COMMITTEES**

**11.1 Written Notice**

Except for motions which can be moved without notice under rule 12, written notice of every motion, signed by at least one Member must be delivered to the Proper Officer at least seven working days before the date of the meeting for which it is intended. The notice of motion must state for which meeting the notice is given. All motions received will be entered into a book open for public inspection.

**11.2 Acceptance of Notice**

- (a) The Proper Officer shall record the time and date at which every notice is received by him/her and that record shall be open to inspection by Councillors.
- (b) If notice is given of any motion which in the opinion of the Head of Paid Service or Monitoring Officer is illegal, improper or defamatory or does not comply with Procedure Rules the Proper Officer shall submit the notice to the relevant Chairman but will not place it on the agenda without the Chairman's sanction. In the event of non-acceptance of a motion the Proper Officer shall inform the Member(s) who submitted the notice giving reasons for the decisions.

**11.3 Motions set out in the Agenda**

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

**11.4 Scope of Motions**

- (a) The motion must be about a matter for which the Council has a responsibility or which affects the district of West Somerset.
- (b) The motion shall deal with one issue only.



**12. MOTIONS WITHOUT NOTICE  
COUNCIL, CABINET AND COMMITTEES**

The following motions may be moved without written notice -

- (a)** To appoint a Chairman of the meeting at which the motion is moved.
- (b)** In relation to the accuracy of the minutes.
- (c)** To change the order of business in the agenda.
- (d)** To refer something to an appropriate body or individual.
- (e)** To receive reports or adoption of recommendations of Committees or officers and any resolutions following from them.
- (f)** To withdraw a motion.
- (g)** To amend a motion.
- (h)** To proceed to the next business.
- (i)** That the question be now put.
- (j)** To adjourn a debate.
- (k)** To suspend a particular procedure rule.
- (l)** To exclude the press and public in accordance with the Access to Information Rules.
- (m)** To not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.
- (n)** To give the consent of the Council where its consent is required by this Constitution.



### **13. RULES OF DEBATE COUNCIL, CABINET AND COMMITTEES**

#### **13.1 Timing of speeches/debate**

No speech/debate may be made until after a proposal has been moved and the purpose of it explained and the proposal has been seconded

#### **13.2 Right to require the motion in writing**

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

#### **13.3 Secunder's Speech**

When seconding a motion or an amendment, a Councillor may reserve their speech until later in the debate

#### **13.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed three minutes without the consent of the Chairman

#### **13.5 When a Member may speak**

- (a)** The Chairman of the meeting will invite Councillors and any other Members who have voting rights at that meeting to speak. The Chairman will at his/her discretion invite any other Councillors to speak after the voting Members have made their speeches.
- (b)** A Member may only speak once on any motion whilst it is the subject of debate, except -
  - (i)** To speak once on an amendment moved by another Member.
  - (ii)** To move a further amendment if the motion has been amended since he/she last spoke.
  - (iii)** If his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried).
  - (iv)** In exercise of a right to reply.
  - (v)** On a point of order.
  - (vi)** By way of personal explanation.

### **13.6 Amendments to Motions**

- (a)** An amendment to a motion must be relevant to the motion and will either be –
  - (i)** To refer/defer 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.
  - (iv)** To insert or add words.

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

- (b)** Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c)** If an amendment is not carried, other amendments to the original motion may be moved.
- (d)** If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e)** After an amendment has been carried, the Chairman of the meeting will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.
- (f)** An amendment must not serve to destroy completely the effect of the motion e.g. by seeking to delay the proposed action by a long period making it ineffective.

### **13.7 Alteration of Motion**

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

### **13.8 Withdrawal of Motion**

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

### **13.9 Right of Reply**

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

### **13.10 Motions which may be moved during a debate**

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

- (a)** To withdraw a motion.
- (b)** To amend a motion.
- (c)** To proceed to the next business.
- (d)** That the question be now put.
- (e)** To adjourn a debate.
- (f)** To adjourn a meeting.
- (g)** To exclude the press and public in accordance with the Access to Information Rules.
- (h)** To not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

### **13.11 Closure Motions**

- (a)** A Member may move, without comment, the following motions at the end of a speech of another Member –
  - (i)** To proceed to the next business.

- (ii) That the question be now put.
  - (iii) To adjourn a debate.
  - (iv) To adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **13.12 Point of Order**

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

### **13.13 Personal Explanation**

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



**14. PREVIOUS DECISIONS AND MOTIONS  
COUNCIL, CABINET AND COMMITTEES**

**14.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of the Council or one of its Committees or Cabinet within the past six months cannot be moved unless either the notice of motion is signed by at least one third of the Members of those entitled to vote at the relevant meeting, or the Head of Paid Service and Monitoring Officer determine that the circumstances have so changed that the matter can be properly considered.

**14.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council or one of its Committees, or Cabinet, within the past six months cannot be moved unless the notice of motion is signed by at least one third of the Members of those entitled to vote at the relevant meeting. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.



**15. VOTING**  
**AT COUNCIL, CABINET AND COMMITTEES**

**15.1 Majority**

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

**15.2 Chairman's Casting Vote**

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

**15.3 Methods of Voting**

- (a)** Unless a ballot or recorded vote is demanded under (b) below, the Chairman will take the vote by show of hands, or if there is no dissent, by affirmation of the meeting.
- (b)** The vote will take place by ballot if two Members present at the meeting demand it. The Chairman or Chief Officer will announce the numerical result of the ballot immediately the result is known.

**15.4 Recorded vote**

- (a)** If two Members present at the meeting demand it before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override the demand for a ballot.
- (b) (i)** Immediately after any vote is taken at a budget decision meeting there must be a recorded vote in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
- (ii)** "Budget decision meeting" means the meeting at which the Council makes a calculation (whether originally or by substitute) in accordance with any sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZJ of the Local Government Finance Act 1992; or
- (iii)** Issues a precept under Chapter 4 of Part 1 of that Act and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting.

- (iv) References to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

### **15.5 Right to require individual vote to be recorded**

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

### **15.6 Voting on appointments**

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

**16. MINUTES**  
**COUNCIL AND ITS COMMITTEES AND CABINET**

**16.1 Signing the minutes**

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

**16.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

*(Note: This is a mandatory Standing Order under the Local Authorities (Standing Orders) Regulations 1993. The language is constrained by that permitted in the Regulations.)*

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

**16.3 Form of Minutes**

Minutes will contain all motions and amendments in the exact form and order the Chairman put them, and decisions or recommendations reached and a reference to any relevant reports and/or key factors that were considered in arriving at such decisions or recommendations.



**17. ATTENDANCE**  
**COUNCIL, CABINET AND COMMITTEES**

**17.1 Record of attendance**

All Members present during the whole or part of a meeting must sign their names on attendance sheets before the conclusion of every meeting to assist with the record of attendance.

**17.2 Councillors entitlement to attend meetings**

Any Member of the Council shall be entitled to attend (but not vote) at any meeting of the Cabinet or a Committee of which he/she is not a Member. Members attending such a meeting shall not be affected by a resolution of the Committee to exclude the press and public from the meeting but may be required, at the absolute discretion of the Chairman, to leave where issues relating to individual Members of staff are to be discussed.

A Member attending a meeting may speak (but not to move or second motions) with the agreement of the Chairman





18. **EXCLUSION OF THE PUBLIC**  
**COUNCIL, CABINET AND COMMITTEES**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 Disturbance by the Public



**19. MEMBERS CONDUCT  
COUNCIL, CABINET AND COMMITTEES**

**19.1 Code of Conduct and Member/Officer Protocol**

Councillors will conduct themselves in accordance with the Code of Conduct (including the general principles) and the Protocol for Member Officer Relations detailed in Part 5 of this Constitution

**19.2 Standing to Speak at Council Meetings**

- (a) When a Member speaks at full Council they must stand and address the meeting through the Chairman. If more than one Member stands, the Chairman will ask one to speak, the other must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or personal explanation.
- (b) When the Chairman stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

**19.3 Member not to be heard further**

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

**19.4 Member to leave the meeting**

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

**19.5 General Disturbance**

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

If the Chairman considers that any Member is under the influence of alcohol/drugs and his/her conduct is disorderly the Chairman may move that the Member leave the meeting.



**20. DISTURBANCE BY THE PUBLIC  
COUNCIL, CABINET AND COMMITTEES**

**20.1 Removal of Member of the Public**

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

**20.2 Clearance of part of the meeting room**

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



**21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE  
RULES COUNCIL, CABINET AND COMMITTEES**

**21.1 Suspension**

Only Rules 13.4 and 13.5 (b) may be suspended. Any motion for a suspension must state why the suspension is required. Suspension can only be for the duration of the meeting.

**21.2 Amendment**

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





## **22. CONFLICTS OF INTEREST**

**22.1** Members of the Council are under a duty to base their decision making on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public.

**22.2** A Member has a potential conflict of interest where any business of the meeting relates to or is likely to affect the subject matter of:

- a) a disclosable pecuniary interest as described at paragraph 2.1 of the Members Code of Conduct and section 30(3) of the Localism Act 2011;
- b) other prejudicial interest as described at paragraph 2.1 of the Members Code of Conduct; or
- c) personal interest as described at paragraph 2.8 of the Members Code of Conduct;

held by a Member and, when prompted by the agenda item, at the commencement of that consideration or when the interest becomes apparent, the Member must disclose to the meeting the existence and nature of that interest.

**22.3** Where an interest is disclosed arising from

- a) a disclosable pecuniary interest; or
- b) other interest where that interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that is likely to prejudice the Member's judgement of the public interest

the Member

- i) may not participate in any discussion of the matter at the meeting
- ii) may not vote on the matter at the meeting
- iii) must retire from the room or other area set aside for the meeting.

**22.4** Where a Member holds a conflict of interest described at 22.3(b) above, before retiring he or she may first exercise the ability to address the meeting as a member of the public in accordance with these Procedure Rules.



## ACCESS TO INFORMATION PROCEDURE RULES

### **1. Scope**

These rules apply to all meetings of the Council, for example the Scrutiny Committee, the Standards Committee, Regulatory Committees, Audit Committee and meetings of the Cabinet (together called meetings for the purposes of these procedures).

### **2. Additional Rights to Information**

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

### **3. Rights to Attend Meetings**

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

### **4. Notice of Meeting**

The Council will give at least five clear days notice of any ordinary meeting by posting details of the meeting at the Council Offices, Williton, the Contact Centre in Minehead and on the Council website. If an extraordinary meeting is called within a shorter timescale to deal urgently with a matter the notice will be published as soon as is practicable.

### **5. Access to Agenda and Reports before the meeting**

The Council will make copies of the agendas and reports open to the public available for inspection at the Council Offices, Williton or on the Council website at least five clear days before the meeting. If an item is added to the agenda later the revised agenda will be open for inspection from the time the item was added to the agenda. Except on rare occasions all reports shall be made available with the agenda.

It should be noted that there is no obligation upon the Council to make documents available for public inspection before copies have been made available to Councillors.

### **6. Supply of Copies**

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

- (a)** Any agenda and reports which are open to public inspection.

- (b) Any further statements or particulars necessary to indicate the nature of items in the agenda.
- (c) If the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

## **7. Access to Minutes etc after the meeting**

As soon as is reasonably practicable after a decision has been made and for up to six years after any meeting the Council will make available copies of the following:

- (a) The minutes of the meeting and records of Lead Member's decisions,
- (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.
- (d) Reports relating to items when the meeting was open to the public.

## **8. Background papers**

### **8.1 List of Background papers**

The person composing any report will set out, at the end of the report, a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion –

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

### **8.2 Public inspection of background papers**

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

## **9. Summary of Public Rights**

These Rules (Access to Information Procedure Rules) provide the written summary of the public's rights to attend meetings and to inspect

and copy documents and are publicly available at the Council Offices, Williton as part of the Council's Constitution.

## **10. Exclusion of Access by the public to meetings**

### **10.1 Confidential Information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Confidential information means information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

### **10.2 Exempt Information – discretion to exclude public**

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

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

### **10.3 Meaning of Exempt Information**

Exempt information means information falling within the following seven categories -

<b>Category</b>	
<i>1. Information relating to any individual</i>	
<i>2. Information which is likely to reveal the identity of an individual</i>	
<i>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</i>	
<i>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority</i>	
<i>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</i>	

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

*Information falling within paragraph 3 above is not exempt 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*
- (f) the Charities Act 1993*

*Information is not exempt 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.*

***Information which falls within any of paragraphs 1 to 7 above is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.***

Where a meeting of the Standards Committee or its Sub-Committee is convened to consider a matter referred for investigation by the Standards Board for England the above 7 categories shall apply with the addition of the following:

- 8. *Information which is subject to any obligation of confidentiality.*
- 9. *Information which relates in any way to matters concerning national security.*
- 10. *The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.*

## **11. Exclusion of access by the public to reports**

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the

public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## **12. Procedure before taking key decision**

***Note:** Key decisions are decisions which fall within the parameters described in (Article 13.3b) and are only taken by the Cabinet*

Subject to Rule 14 (general exception) and Rule (15) (special urgency) a key decision may not be taken unless –

- (a) A Forward Plan has been published which details the matter in question.
- (b) The notice of the meeting of the Cabinet has been given in accordance with Rule 4 (notice of meetings) and at least 5 clear days have elapsed since the publication of the Forward Plan

## **13. The Forward Plan**

### **13.1 Publication of the Forward Plan**

The Council is required to give a minimum of 28 clear days notice of key decisions to be taken by the Cabinet, Cabinet Members or officers.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## **14. General Exception**

### **14.1 General Exception Procedure and Special Urgency Procedure**

If it is not possible to give 28 clear days notice of a Key Decision within the Cabinet Forward Plan, the key decision can only be taken if the Monitoring Officer has:

- (a) informed the Chairman of the Scrutiny Committee, or, in their absence each member of the Scrutiny Committee in writing or by email, of the matter for decision;
- (b) has published a copy of that notification on the Council’s public notice board and on the Council’s website for 5 clear days.

**14.2** If a Key Decision is required so urgently that it is impracticable to comply with the General Exception Procedure then the decision can only be taken if the decision-taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Scrutiny Committee, or if the Chairman of the Scrutiny Committee is unable to act, the agreement of the Chairman of the Council or in his/her

absence the Vice-Chairman, in writing or by email that the decision is urgent and cannot be deferred.

As soon as practicable after paragraph 14.2 above has been complied with, the Monitoring Officer must publish a notice at the Council's offices and on the Council's website stating the reasons for urgency and why the 28 day notice and general exception procedures cannot be complied with.

A decision will be urgent if any delay likely to be caused by call-in would seriously prejudice the Council's or the public interest.

## **15. Record of Cabinet Meeting Decisions**

As soon as reasonably practical after a meeting of the Cabinet, the Monitoring Officer or if not present the person presiding (the Chairman) will produce a decision notice for each decision taken to include:

- (a) a record of the decision including the date made
- (b) the reasons for the decision
- (c) details of any alternate options considered and rejected by the Cabinet at its meeting
- (d) a record of conflicts of interest declared by members of the Cabinet and any dispensations agreed by the Chief Executive.

## **16. Report to Council**

### **16.1 When the Scrutiny Committee can require a Report**

If the Scrutiny Committee thinks that a key decision has been taken which was not –

- (a) Included in the Forward Plan; or
- (b) The subject of the general exception procedure; or
- (c) The subject of an agreement with the Chairman of the Scrutiny Committee or other person under Rule 15.

The Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested in writing by the Chairman of the Scrutiny Committee or any five non-Cabinet Members. Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

### **16.2 Cabinet's report to Council**



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

### **16.3 Regular reports on special urgency decisions**

In any event the Leader will submit regular reports to the Council on the executive decisions taken under the provisions of Rule 15 – Special Urgency. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **17. Record of Decisions**

### **17.1 Cabinet**

After any meeting of the Cabinet, a record will be produced of every decision taken at the meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at the meeting.

### **17.2 Individual Decisions by Lead Members**

As soon as reasonably practicable after an executive decision has been taken by an individual Member of the Cabinet, i.e. a Lead Member, he/she will prepare or instruct the Proper Officer to prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Cabinet. This does not require the disclosure of exempt or confidential information.

## **18. Scrutiny Committee – access to documents**

### **18.1 Rights to copies**

Subject to Rule 18.2 below the Scrutiny Committee will be entitled to copies of

any document which is in the possession or control of the Cabinet and which contains material relating to –

- (a)** Any business transacted at a meeting of the Cabinet.

- (b) Any decision taken by an individual Member of the Cabinet (Lead Member).

## **18.2 Limit on Rights**

The Scrutiny Committee will not be entitled to –

- (a) Any document that is in draft form.
- (b) Part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

## **19. Additional Rights of Access for Councillors**

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet which relates to any decision made in accordance with Executive Arrangements, immediately after the decision has been made. However it will not be available if it appears to the proper officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act other than information falling within paragraph 3 of Schedule 12A to the 1972 Act as amended (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) or information falling within paragraph 6 of Schedule 12A to the 1972 Act as amended.

This right is additional to any other right a Councillor may have.

## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The framework for Executive Decisions (Cabinet and Lead Member Decisions)**

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

### **2. Process for developing the framework**

- (a)** The Cabinet will publicise by inclusion in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than six weeks.
- (b)** At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses in that consultation. If the Scrutiny Committee wish to respond to the Cabinet in that consultation process then they may do so. As the Scrutiny Committee has responsibility for fixing its own work programme, it may investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Scrutiny Committee into account in drawing up firm proposals for submission to the Council. The Cabinet's report to Council will reflect the comments made by consultees and the Cabinet's response to those comments.
- (c)** Once the Cabinet has approved the firm proposals, the Proper Officer will refer them at the earliest opportunity to the Council for decision.
- (d)** In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or, in principle, substitute its own proposals in their place.
- (e)** If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f)** The decision will be publicised in accordance with Article 4 of this Constitution and a copy shall be given to the Leader.

- (g) An in-principle decision will automatically become effective 6 working days from the date of the Council’s decision, unless the Leader informs the Proper Officer in writing within five working days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Proper Officer will call a Council meeting within 5 working days. The Council will be required to reconsider its decision and the Leader’s written submission within 5 working days of the Proper Officer calling the meeting. The Council may –
  - (i) Approve the Cabinet’s recommendation by a simple majority of votes cast at the meeting; or
  - (ii) Approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority of votes cast at the meeting.
- (i) The decision shall then be made public in accordance with Article 4 of this Constitution, and shall be implemented immediately.
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and the degree of changes within the life of the Corporate Plan and to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these rules (virement and in-plan adjustments). Any other changes to the policy and budgetary framework are reserved to full Council.

### **3. Decisions outside the budget or policy framework**

- (a) Subject to the provisions of paragraph 5 (virement) the Cabinet, Lead Members or any Officer discharging an executive function may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by Council, subject to 4 below.
- (b) If the Cabinet, Lead Member or any Officer discharging executive functions wants to make such a decision, they shall take advice from the Monitoring Officer and the Section 151 Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the Corporate Plan. If the advice of either of these Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a

matter of urgency in which case the provisions of paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

#### **4. Urgent decisions outside the budget or policy framework**

**(a)** The Cabinet, a Lead Member or an Officer discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the Corporate Plan approved by full Council if the decision is a matter of urgency. However, the decision may only be taken –

- (i)** If it is not practical to convene a quorate meeting of the full Council; and
- (ii)** If the Chairman of the Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of the full Council and the Chairman of the Scrutiny Committee consents to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman or Vice-Chairman of the Scrutiny Committee the consent of the Chairman of Council will suffice.

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

#### **5. Virement**

The rules regarding virement are contained in the Council's financial rules but in summary the Council's budget will be divided into budget heads which reflect Portfolios. Steps taken by the Cabinet, Lead Members or Officers discharging executive functions to implement Council policy shall not exceed those budgets allocated to each portfolio. Virement between portfolios will require the approval of the full Council.

#### **6. In-Plan changes to the policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a Lead Member or an Officer discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes –

**(a)** Which result in the closure or discontinuance of a service or part of a service to meet a budgetary constraint.

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

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

- (a) Where the Scrutiny Committee is of the opinion that an executive decision (made by either the Cabinet or a Lead Member) is, or if made would be, contrary to the policy framework or contrary to or not wholly in accordance with the Council's Corporate Plan, then it shall seek advice from the Monitoring Officer and the Section 151 Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or the Section 151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and, to prepare a report to Council in the event that the Monitoring Officer or Section 151 Officer concluded that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or Section 151 Officer concluded that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the Corporate Plan, the Scrutiny Committee may refer the matter to Council. In such cases no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten days of the request by the Scrutiny Committee. At the meeting the Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either –
  - (i) Endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (ii) Amend the Council's financial rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree

to the decision with immediate effect. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

- (ii)** Where the Council accepts that the decision or proposal is contrary to the policy framework or contrary or not wholly in accordance with the Corporate Plan, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or the Section 151 Officer.





## **CABINET PROCEDURE RULES**

Meetings of the Cabinet will be governed by the Council Procedure Rules set out in Part 4 of this Constitution, where it is stated that they apply to the Cabinet, in addition the following will apply:

### **1. How does the Cabinet operate?**

#### **1.1 Who may make executive decisions?**

The arrangements for the discharge of executive functions are set out in the Terms of Reference for the Cabinet (see Part 3 of the Constitution) and the Scheme of Delegations (see Part 3 of the Constitution).

Subject to meeting the contents of those items, executive functions may be discharged by –

- (i) The Cabinet as a whole.
- (ii) A Lead Member (an individual Member of the Cabinet).
- (iii) An Officer.
- (iv) Joint arrangements; or
- (v) Another local authority.

#### **1.2 The appointment of the Cabinet**

At the annual meeting of the Council the Leader will present to the Council the names of the people he/she is appointing to the Cabinet in relation to the coming year and the details of their allocated portfolios. In the event of the Leader changing the Cabinet during the year a report shall be made to the next Council meeting.

#### **1.3 The Council's Scheme of Delegations**

The Council's Scheme of Delegations which includes delegation of executive functions to Lead Members and Officers is subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and is set out in Part 3 of this Constitution.

#### **1.4 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set

out in the Council's Code of Conduct for Councillors and co-opted Members in Part 5 of this Constitution.

- (b) If every Member of the Cabinet has a conflict of interest it will be necessary for the individual Members of the Cabinet to apply to the Monitoring Officer for a dispensation.
- (c) If the exercise of an executive function has been delegated to a Lead Member or Officer and should a conflict of interest arise, then the function will be exercised by the Cabinet.
- (d) If the exercise of an executive function has been delegated to an Officer and should a conflict of interest arise the function will be exercised by the relevant Lead Member.

### **1.5 Cabinet Meetings – When and Where**

The Cabinet will meet at least once a month as scheduled on the Council's timetable of meetings and at any other time as agreed by the Leader. The Cabinet will meet at any location to be agreed by the Leader, this will usually be the Council's main office.

### **1.6 Public or Private meetings of the Executive**

The Cabinet will meet in public.

### **1.7 Quorum**

The quorum for a meeting of the Cabinet will be 3.

### **1.8 How are executive decisions taken?**

- (a) Executive decisions which are to be taken by the Cabinet as a whole in accordance with the Terms of Reference will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this Constitution.
- (b) Only the Cabinet meeting as a whole may make 'key' decisions.
- (c) Lead Members may make executive decisions in accordance with the Scheme of Delegations as set out in Part 3 of this Constitution.

## **2. How are Executive Meetings Conducted?**

### **2.1 Who Presides?**

If the Leader is present he/she will preside. In his/her absence the Deputy Leader will preside.

## **2.2 Who May Attend?**

These details are set out in the Access to Information Rules in Part 4 of this Constitution, but, in summary, Cabinet meetings are open to any Councillor and members of the public to attend unless an exempt or confidential item is under discussion.

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

- (i)** Apologies for absence from Cabinet Members will be received.
- (ii)** Consideration of the minutes of the last meeting.
- (iii)** Declarations of interest to be made.
- (iv)** Public participation to be notified.
- (v)** Adoption of the next Forward Plan.
- (vi)** Matters referred to the Cabinet for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution.
- (vii)** Consideration of any reports from the Scrutiny Committee.
- (viii)** Key decisions/matters set out on the agenda for the meeting.

## **2.4 Who can put items on the Cabinet Agenda?**

- (a)** Any Member of the Council may ask the Leader to put an item on the agenda of the Cabinet meeting for consideration, and if the Leader in consultation with the Head of Paid Service agrees, the item will be considered at the next available meeting of the Cabinet. The agenda for the meeting will give the name of the Councillor who asked for the item to be considered and this individual will be invited to attend the meeting.
- (b)** The Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Paid Service to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Monitoring Officer and Section 151 Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the Proper Officer may convene a meeting at which the matter will be considered.

## **2.5 Implementation of Decisions**

Decisions of the Cabinet as a whole and Lead Members are subject to the Call-In Procedure (detailed in the Overview and Scrutiny Procedure Rules) and cannot be implemented until the period allowed for Call-In has elapsed.

## **SCRUTINY COMMITTEE PROCEDURE RULES**

### **1. What will be the number and arrangements for the Committee?**

**1.1** There will be one Scrutiny Committee as set out in Article 6, which will perform all overview and scrutiny functions on behalf of the Council. It will consist of 9 Members of the Council (politically balanced).

**1.2** The Terms of Reference for the Scrutiny Committee will be:

1. To scrutinise Performance Management information on a scheduled basis.
2. To undertake scrutiny of particular Key Decisions and other aspects of Cabinet activity.
3. To review or scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.

Note: as this is not intended as an appeals procedure the committee should not normally scrutinise individual decisions made by other committees, particularly those in respect of development control, licensing, registration, consents and other permissions.

4. To review any Cabinet decisions that have been 'called-in' including the power to pass call-ins to Council.
5. The Committee can require Cabinet Members and Corporate Management Team of the Council to attend and give evidence, subject to the appropriate rules and procedures.
6. The Committee can invite any other persons to attend its meetings and speak and answer questions, but cannot require them to do so.
7. No member of the Committee should take any part in any scrutiny review that involves a decision to which they have been party.
8. Investigate and consider broad policy issues and make reports and recommendations to Cabinet and Council as appropriate.
9. To assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues.
10. To make reports or recommendations to the Council or Cabinet, as appropriate, in respect of matters which affect the local authority's area or its inhabitants. The reports or

recommendations cannot be binding on outside bodies but should consider the involvement of partnership organisations.

11. To conduct research and consultation in the analysis of policy issues and development of possible options for the future with the assistance of Policy Advisory Groups.
12. To consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
13. To liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

## **2. Who may sit on the Scrutiny Committee?**

All Councillors, except Members of the Cabinet, may be nominated to sit on the Scrutiny Committees.

## **3. Meetings of the Scrutiny Committee?**

The Scrutiny Committee shall meet once a month in accordance with the Council's timetable of meetings. A Special meeting may be called by the Chairman of the Committee, by any three Members of the Committee or by the Proper Officer or the Monitoring Officer or the Section 151 Officer if he/she considers it necessary or appropriate.

## **4. Quorum**

The quorum for the Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution, namely 3.

## **5. Who Chairs the Scrutiny Committee?**

The Chairman of the Scrutiny Committee will be drawn from among the Councillors sitting on the Committee but who is not a Member of the majority/ruling group.

## **6. Work Programme**

The Committee will be responsible for setting its own work programme.

## **7. Agenda Items**

Any Member of the Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request, the Proper

Officer, in consultation with the Chairman of the Committee, will determine whether the matter should properly be included on the agenda for that Committee.

**8. Making sure that the reports are considered by the Cabinet**

- (a) Once a Scrutiny Committee report on any matter which is the responsibility of the Cabinet has been completed and submitted to the Proper Officer, it shall be included on the agenda of the next available Cabinet meeting, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 2 months from the date the report was adopted by the Scrutiny Committee. In such cases, the report of the Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Scrutiny Committee report within two months then the matter will be referred to Council for review, and the Proper Officer will call a Council meeting to consider the report and make a recommendation to the Cabinet.
- (b) The Scrutiny Committee will in any event have access to the Forward Plan. Even where an item is not the subject of detailed proposals from the Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key issue.

**9. Rights of the Scrutiny Committee**

- (a) In addition to their rights as Councillors, Members of the Scrutiny Committee have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committee as appropriate depending on the particular matter under consideration.

**10. Members and Officers giving account**

- (a) The Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require the Leader or any Lead Member and/or any member of the Corporate Management Team to attend before it to explain in relation to matters within their remit –
  - (i) any particular decision or series of decisions;

- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) their performance

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

- (b) Where any Councillor or Officer is required to attend the Scrutiny Committee under this provision, the Chairman of the Scrutiny Committee will inform the Proper Officer. The Proper Officer shall inform the Councillor or Officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report then the Councillor or Officer will be given sufficient notice to allow for preparation of that documentation.
- (c) Where in exceptional circumstances the Councillor or Officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Councillor or Officer arrange an alternative date for attendance.

## **11. Attendance by Others**

The Scrutiny Committee may invite people other than those people referred to in paragraph 10 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Councillors and Officers in other parts of the public sector and shall invite such people to attend (attendance is of course entirely optional).

## **12. Call-In**

Call-In should only be used in exceptional circumstances. This are where non-executive Councillors have evidence that suggests that an executive decision was made and was not in accordance with the principles set out in Article 13 (decision-making).

The executive decision Call-In procedure is as follows –

- (a) The request to Call-In an executive decision must be made by at least five non-executive Councillors.
- (b) The Call-In request must be received by the Proper Officer within five working days of the decision being published. This means that any decision which is capable of being called-in (see 10 below) cannot be actioned until the sixth working day after the decision has been published.



- (c) The Call-In request should be made on the appropriate form (annex 1 to these Overview and Scrutiny Committee Procedure Rules). Copies of the form are available from Member Services.
- (d) Upon receipt of the Call-In request the Head of Paid Service or Proper Officer will check the validity of the Call-In and inform the following people –
- Chairman of the Scrutiny Committee
  - Vice-Chairman of the Scrutiny Committee
  - Leader of Council
  - Relevant Lead Member
  - Head of Paid Service
  - Monitoring Officer
  - Relevant Corporate Director
- (e) The Proper Officer will arrange for an item to be included on the next relevant Scrutiny Committee agenda and will arrange for a report to be compiled giving details of issues to be considered. If, after liaison with the Chairman of the Scrutiny Committee, it is deemed necessary, a special meeting of the Committee will be called (in accordance with the appropriate Access to Information Rules in Part 4 of this Constitution) to discuss the called-in item
- (f) At least one Councillor requesting the Call-In will be required to attend the Scrutiny Committee meeting to explain why the Call-In has been made and to present any appropriate documents or reports.
- (g) The relevant Lead Member or the Leader must attend the Scrutiny Committee meeting to answer any questions regarding the called-in item.
- (h) The Scrutiny Committee can make any one of three decisions regarding the called-in item –
- Do nothing and let the decision stand without review.
  - Refer the matter back to the decision maker with a recommendation that the decision be reconsidered taking into account any specific factors.
  - Refer the matter to Council if the Committee believes that the decision is contrary to the policy framework or contrary or not wholly in accordance with the Corporate Plan.

- (i) The Chairman of the Scrutiny Committee will attend the Cabinet or Council meeting as appropriate to present the Committee's findings.
- (j) The following decisions **CANNOT** be called-in –
- Cabinet recommendations to Council.
  - Executive decisions which were made following the receipt of advice from the Scrutiny Committee.
  - Decisions which are not executive decisions.
  - Decisions of full Council.
  - Decisions of any disciplinary appeals panel.
  - Urgent items.

The Call-In procedure set out above shall not apply where the decision being taken is urgent. For the purposes of the Call-In procedure a decision will be considered urgent if any delay likely to be caused by the Call-In process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state if in the opinion of the decision-making person or body the decision is an urgent one and therefore not subject to Call-In. The Chairman of the Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions defined as urgent in this context must be reported to the next available meeting of Council together with reasons for the urgency.

The operation of the provisions relating to Call-In shall be monitored and a report by the Proper Officer submitted to Council with proposals for review if necessary.

### **13. The Party or Group Whip**

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

### **14. Procedure at the Scrutiny Committee**

- (a) At each meeting of the Scrutiny Committee the following business will be conducted –

- (i)** Apologies for absence.
  - (ii)** Consideration of the minutes of the last meeting.
  - (iii)** Declarations of interest to be made (including whipping declarations).
  - (iv)** Public participation to be notified.
  - (v)** The business set out on the agenda for the meeting.
- (b)** Where the Scrutiny Committee conducts investigations the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles –
  - (i)** That the investigations be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak.
  - (ii)** That those assisting the Committee by giving evidence be treated with respect and courtesy.
  - (iii)** That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c)** Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.



## Request to Call-In an Executive Decision Annex 1

Notice of a 'call-in' must be received by the Head of Paid Service/Proper Officer within 5 working days of the publication of the relevant Executive decision.

1. Decision 'called-in':

2. Decision maker e.g. Cabinet or Lead Member:

3. Call-in invoked by:

Names:


4. Reason(s) For 'Call-in':  
(Refer Article 13.02 Principles of Decision Making)

That the decision failed to satisfy one or more of the following principles of decision-making: (please tick relevant principles)

- |      |   |   |
|------|---|---|
| i    | Proportionality (i.e. Action must be proportionate to the desire outcome) | <input style="width: 50px; height: 20px;" type="checkbox"/> |
| ii   | Due consultation & taking of officers professional advice                 | <input style="width: 50px; height: 20px;" type="checkbox"/> |
| iii  | A presumption in favour of openness                                       | <input style="width: 50px; height: 20px;" type="checkbox"/> |
| iv   | Clarity of aims and desired outcomes                                      | <input style="width: 50px; height: 20px;" type="checkbox"/> |
| v    | Compliance with the Access to Information Regulations                     | <input style="width: 50px; height: 20px;" type="checkbox"/> |
| vi   | Observance of the Members' Code of Conduct                                | <input style="width: 50px; height: 20px;" type="checkbox"/> |
| vii  | Not within policy   | <input style="width: 50px; height: 20px;" type="checkbox"/> |
| viii | Not within budget   | <input style="width: 50px; height: 20px;" type="checkbox"/> |

5. Explanation of why the decision is considered not to have satisfied the above criteria:

Signed:

Date:

Date Call-In request received by Head of Paid Service or Proper Officer:

<input type="text"/>
<input type="text"/>

Date Call-In agreed as valid:

Valid Call-In reported to:

- Chairman of Scrutiny Committee
- Vice-Chairman of Scrutiny Committee
- Leader
- Relevant Lead Member
- Monitoring Officer
- Relevant Member of CMT

<input type="checkbox"/>
<input type="checkbox"/>
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<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>



# FINANCIAL REGULATIONS

November 2012





## West Somerset District Council Financial Regulations

Issue details	
Title:	Financial Regulations
Issue and version number:	1.1
Officer	Steve Plenty
Authorisation Level:	Corporate Management Team/Scrutiny Committee/Cabinet/Full Council
Authorisation Date:	July 2011
Review date:	November 2012

### Financial Procedure Rules

### FINANCIAL REGULATIONS

#### Introduction

1. All Local authorities are established under legislation that confers rights, powers and duties upon them and their officers.
2. Financial Regulations are a direct result of those statutory duties and ensure compliance with statutory requirements, accounting and auditing standards and codes of practice, which are established by the professional accounting bodies.
3. These financial regulations will apply to all staff employed by the Council (including consultants) and Members.
4. Where the term Corporate Manager is used this should apply equally to The Chief Executive / Directors. Please refer to the latest key personnel list to identify staff such as the Section 151 Officer. The term Corporate Manager should be viewed as any post that reports directly to The Chief Executive / Directors even if the job title does not include the phrase Corporate Manager.
5. Any failure to comply with Financial Regulations or associated Codes of Practice could result in appropriate disciplinary action being taken.
6. These definitions are intended to provide all staff and consultants with a clear indication of the financial framework within which this Council works.

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## GENERAL

### F.R.1 GENERAL

1. The Section 151 Officer shall have overall responsibility for the management of the Council's finances, but will consult with the Chief Executive and Lead member for Resources and Central Support concerning financial policy and/or any matter which will affect the overall finances of the Council. Detailed reports will be submitted to the Corporate Management Team, the Cabinet and the Council, and, as appropriate, to Audit Committee or Scrutiny Committee under the Council's Constitution.
2. The Section 151 Officer exercises the statutory duties in relation to the financial administration and stewardship of the District Council. This statutory responsibility cannot be overridden.

The statutory duties arise from –

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounting and Audit Regulations 1996
- The Accounts and Audit Regulations 2003 and are underpinned by case law.

The Section 151 Officer is responsible for –

- The proper administration of the Council's financial affairs
- Setting and monitoring compliance with financial management standards
- Advising on the corporate financial position and the key controls necessary to secure sound financial management
- Preparing the medium term financial plan which incorporates the annual revenue budget and the capital investment programme
- Advising the council on the requirements to be observed in the setting of the revenue budget and the fixing of the precept and Treasury management
- Acceptance of Grant Conditions. Pursuant to Section 151 of the Local Government Act 1972, the responsible financial officer will have the power to enter into binding financial agreements including, but not limited to, applying for grants or making claims and accepting conditional or non-conditional grants and committing the Council to repay grants in the event that the terms and conditions are not met.

The Section 151 Officer shall review these Regulations annually.

3. References in these Regulations to Corporate Managers shall apply equally to all full members of the Council's Corporate Management Team.

4. All reports submitted to the Council, the Cabinet or Committees will be subject to comment on the financial aspects by the Section 151 Officer.
5. These Financial Regulations are created to facilitate and ensure proper control of the Council's finances, accounts, income, expenditure and assets. Adherence to and compliance with these Financial Regulations is a duty and responsibility of all staff employed by the Council.
6. The Financial Regulations ensure compliance with statutory requirements, accounting and auditing standards and codes of practice, which are established by the professional accounting bodies and shall apply to all staff employed by the Council, including consultants.

## **ACCOUNTING ARRANGEMENTS**

### **F.R.2 ACCOUNTING ARRANGEMENTS**

1. All accounts of the Council shall be compiled under the direction of the Section 151 Officer and all systems of accounting shall be subject to approval by the Section 151 Officer, statutory requirements and relevant codes of practice.
2. The Section 151 Officer shall arrange: -
  - (i) Whenever possible for the separation of duties so that staff dealing with the receipt of income shall not be involved with the creation of debits in respect of that income and/or decisions regarding the write off of such sums.
  - (ii) For all financial claims, subsidies and claims on external bodies, etc. to be prepared and submitted within prescribed periods and their receipt verified. All such claims shall be certified by the Section 151 Officer.

### **F.R.3 BUDGETARY PROCEDURES**

1. The Council's Section 151 Officer will submit a three-year medium term financial plan annually, for comment by Scrutiny and approval by the Cabinet and Council.
2. The Section 151 Officer, in conjunction with appropriate Corporate Managers and Directors, shall prepare annual estimates of income and expenditure for both capital and revenue for each service area. All estimates shall be presented to The Cabinet prior to approval by Council.
3. The Section 151 Officer shall report to The Cabinet if any estimate of expenditure at cost centre level will be significantly exceeded or

estimate of income will be significantly unrealised, subject to approved virements. All Corporate Managers are required to provide comments on quarterly reports on their budget areas, as requested by the Section 151 Officer, for submission to Corporate Management Team, Scrutiny Committee and Cabinet.

4. All requests for supplementary estimates, shall be submitted to the Cabinet by the Section 151 Officer for recommendation to Council.
5. Subject to the provisions of F.R.5e below, Corporate Managers may, with the approval of the Deputy Section 151 Officer, vire up to £10,000 within any budget head under their control. A number of virements under £10,000 cannot be aggregated to increase a budget by more than £10,000.
6. Requests for virement –
  - in excess of £10,000 must be approved by The Cabinet
  - any request to vire from income budgets to expenditure budgets must be approved by The Cabinet.
  - in excess of £25,000 must be approved by Council (after Cabinet consideration).
7. No virement will be permitted from specific approved resource bids, approved carry forwards, salary budgets and associated budget lines, insurances, central support charges or capital charges.
8. If a revenue budget does not exist and a virement cannot be identified, a new budget may be created but only if supported by the Section 151 Officer.
9. The Section 151 Officer shall report to The Cabinet such financial *matters* as may be considered necessary, or as may be required.
10. All carry forwards of under-spends must be approved by Council. Carry forwards must be £5,000 or greater. Requests for carry forward of budgets should be identified whilst revising budget estimates in December each year. Requests after this date will not be considered unless exceptional circumstances can be demonstrated.
11. The Head of Paid Service, Monitoring Officer and Corporate Managers, in consultation with the relevant portfolio holder, have delegated authority from Cabinet to alter staffing within Services, where no redundancies are proposed, as long as this remains within existing salary budget provision.
12. When submitting structures for consideration all structures should be shown at the anticipated cost for the current year, the anticipated costs for the next full financial year and also at the maximum of grade to enable comparisons.

#### **F.R.4 RECHARGE OF PROFESSIONAL SERVICES**

1. The Section 151 Officer shall, within overall budgetary arrangements, make provision for the recharging of the costs of central services to the appropriate cost centres.
2. Each Corporate Manager shall be responsible for maintaining adequate detailed records as required by the Section 151 Officer in order that actual expenditure may be regularly and accurately recharged to clients' cost centres within specified deadlines.

#### **F.R.5 CAPITAL EXPENDITURE**

1. The Council shall have full regard to The Prudential Code for Capital Finance in Local Authorities.
2. Prudential indicators will be produced at least six monthly and reported to Council via The Cabinet.
3. The Council shall, during each financial year, approve a programme of capital expenditure.
4. Whenever it is proposed to embark upon one of the schemes identified in the capital programme, the Corporate Manager concerned shall complete a capital submission document and copies of the Business Case and Project Plan for consideration by the Corporate Management Team. This also applies to schemes that are not directly funded by West Somerset Council.
5. Every proposed capital scheme shall be evaluated and prioritised by the Corporate Management Team and submitted to the Cabinet to enable a prudent and sustainable capital programme to be approved. New Schemes may only be added to the programme with the approval of the Council.
6. If, during the progress of the scheme, it becomes apparent that the estimates originally submitted are likely to be materially varied (in excess of 10% or £10,000 whichever ever is the greater) either up or down, the Corporate Manager shall report and explain the facts as soon as possible to The Cabinet.
7. The duties of a Corporate Manager under this Regulation may be exercised by any architect, engineer or surveyor engaged by the Council as a consultant where circumstances require it.

#### **F.R.6 MANAGEMENT OF CONTRACTS (See also [Contract Standing Orders](#))**

1. The Section 151 Officer will be responsible for maintaining a register of contractual payments. The register will demonstrate the current

financial position for those contracts of a staged payment nature (generally involving construction). All contracts must be recorded in this Register, including those for goods and services, and use of consultants.

2. Contract Payment Certificates will be prepared by the Corporate Manager nominated in the contract. All externally prepared certificates will be passed to the appropriate Client Manager for certification. Payment will be made through the Section 151 Officer on receipt of authorised certificates.
3. The Final Certificate for staged payments will not be issued until a Final Account (see contract conditions) has been verified by the Corporate Manager and presented to the Section 151 Officer for payment.
4. Where Liquidated/Ascertained Damages are imposed on the contractor for failure to complete the contract within the stipulated time-scales (including authorised extension), the relevant Contract Administrator will inform the Section 151 Officer in writing of the sum to be deducted.
5. On receipt of the confirmed Final Account sum for contracts over £100,000, the Corporate Manager will report the agreed outcome to The Cabinet.
6. Claims submitted relating to matters outside the terms of any existing contract shall be referred to –
  - (i) The relevant Corporate Manager in charge of Legal Services for legal liabilities, and
  - (ii) The Section 151 Officer for financial matters.

Appropriate Corporate Managers will be consulted before any settlement is reached.

Every contract over £50,000 should also include as a minimum the following requirements: -

1. An overseeing project team, consisting of appropriate and/or relevant Councillors and Officers, and possibly co-opted and appropriately qualified member(s) of the public, is established from the outset of a project to monitor and oversee the project and make reports to Council. This would include the appointment of any Employer's Agent and the terms of payment of the Employer's Agent and terms for any overrun of the project, together with the tender process and appointment of contractor(s).
2. That the specification prior to the tender process is clearly identified to ensure cost certainty to the contract.

3. That clear and documented delegations of authority are given to employed staff involved in the management of future projects.
4. That staff who are to be involved in the management of projects are to have received the necessary project management training.
5. That all staff involved in the delivery of key projects be adequately supported.
6. That the Council ensures there is adequate monitoring and reporting of the management of projects to both Officers and Members.
7. That the Council is represented at all Project Team meetings. No meetings of the Project Team will take place where there is no representative of the Council present.
8. That for all future projects, of whatever size, the Council is able to provide fully supportive minutes and actions to support the decision making process.
9. That the Council ensures that all relevant records, appropriately cross-referenced, are made available to ensure full compliance and demonstrate a clear audit trail using its own records.
10. There is a clear 'sign off' by Officers to the relevant member body, fully minuted, so ensuring that Councillors are part of the process of delivering within their Delegation of Authority levels.
11. That the thresholds of delegation referred to in Financial Regulation FR6 'Management of Contracts' are reviewed as part of the annual review of Financial Regulations.

## **ORDERING OF GOODS AND SERVICES**

### **F.R.7 ORDERING OF GOODS AND SERVICES**

1. Orders shall be issued for all goods and services to be supplied to the Council, except for utility services, small value purchases made from petty cash accounts and any other exceptions as may be approved by the Section 151 Officer. Please also refer to FR6 Management of Contracts and Contracts Standing Orders for orders of more than £10,000.
2. Orders shall be placed using the Council's purchase order system.
3. Orders shall not be issued for goods and services unless the cost is covered by an approved budget or other financial provision. A minimum of three written competitive quotations must be obtained for goods and services estimated to exceed a cost of £10,000, excluding VAT. For goods and services estimated to exceed a cost of £50,000



excluding VAT (but less than the EU thresholds) tenders should be invited in accordance with contract standing orders. For goods and services estimated to exceed EU thresholds reference should be made to contract standing orders. Occasionally there may be reasons for seeking exceptions to these rules. For exemptions for orders over £10,000 see Contract Standing Orders.

4. Details of quantities, prices and discounts must be recorded. All verbal orders must be confirmed in writing.
5. Orders are to be approved by a Corporate Manager, or authorised signatory on their behalf. These signatures must be in full - not in the form of initials.
6. Orders for the provision of services, *which are subject to Contract Standing Orders*, shall not be issued until or unless the provider has been appropriately verified and accredited for insurance purposes.

#### **F.R.8 FINANCIAL AGREEMENTS FOR SERVICES (see also Contracts Procedures Rules)**

1. All written agreements with a committed value exceeding £10,000 but below £50,000 entered into with external organisations will be subject to conditions detailed under F.R.7 Ordering Goods & Services.
2. Arrangements for agreements constituting "contracts" in excess of £50,000 are dealt with in Contracts Procedure Rules.
3. The relevant Corporate Manager in charge of Legal Services will invite the Section 151 Officer to confirm the acceptability of any financial provisions prior to his formal approval of the terms of the agreements. In the event that this is the same person, a second Corporate Manager, the Monitoring Officer or Head of Paid Service will provide this role.

#### **F.R.9 EMPLOYMENT OF CONSULTANTS**

1. Any appointment of consultants must be in accordance FR7 and Contract Standing Orders section 10.5.
2. No consultant shall make any decision on whether to award a contract or who a contract shall be awarded to. The authorised officer shall ensure that the consultant's performance is monitored.

#### **F.R.10 INFORMATION TECHNOLOGY**

1. All hardware and external software purchases, and all items relating to voice/data communications must be made through the Corporate Manager responsible for Information Technology, who shall report to

the Corporate Management Team upon any requests that appear to be of a non-corporate nature.

2. When developing a new system, or making significant variations to an existing system the system manager should advise the following Officers -
  - (i) the Officer responsible for Data Protection, and
  - (ii) the Corporate Manager responsible for Internal Audit prior to reliance on the new/updated system.

## **PAYMENTS FOR GOODS**

### **F.R.11 PETTY CASH/PURCHASING CARD ACCOUNTS**

1. The Section 151 Officer shall provide petty cash accounts or purchasing cards as considered necessary for the purpose of meeting small value expenses. Petty cash should only be used when no other payment method is possible.

Petty Cash –

- (i) Income received shall not be paid into petty cash accounts, but must be accounted for and paid to the Council as provided for in F.R.19.
- (ii) Payments to be limited to small value items under £25 and must ensure compliance with Best Value; each payment shall be supported by either an acceptable VAT receipt (as appropriate) or a receipted voucher. Failure to produce such a receipt may mean that reimbursement is not given.
- (iii) A different employee should certify the petty cash request to the employee that is receiving the cash (iv) Employees responsible for petty cash accounts shall, when requested but at least annually, supply the Section 151 Officer with a certificate showing the state of the account.
- (v) On leaving the employment of the Council, or otherwise ceasing to be responsible for a petty cash account, each employee shall be required to account to the Section 151 Officer for the current balance of the account. Transfers of cash in hand and relevant supporting documents to replacement employees shall be evidenced on every occasion.

### **F.R.12 PAYMENTS OF CREDITORS**

1. The approved method of payment of creditors by the Council shall be by BACS, cheque or other instrument drawn on the Council's bank account by the Section 151 Officer or other nominated member of staff. The Council's preferred method of payment is BACS.
2. Certifying Officers are responsible for ensuring that –
  - (i) The expenditure has been properly incurred and is within the approved estimate provision,

- (ii) The invoice complies with contract standing orders
  - (iii) The invoice is accurate,
  - (iv) Goods and Services have been received and
  - (v) The invoices has not previously been certified and paid and is properly payable by the Council.
3. Certifying Officers should not certify invoices for payments to relations or friends.
  4. All certifications will be evidenced by personal signatures in full - initials will not be accepted.
  5. Pro forma Invoices should state the appropriate Committee minute reference and date, or, if this is not available, then sufficient narrative.
  6. Each Corporate Manager will retain up to date specimen signatures of employees personally authorised by them to certify invoices. Copies of these lists must be passed to the Section 151 Officer.
  7. Goods and services received should be signed (using a full signature) by a person other than the certifying officer. This person is signing to say that they are satisfied that the work, goods or services to which the invoice relates have been received, carried out, examined and approved.
  8. Corporate Managers shall, by early April each year (exact date to be notified by the Section 151 officer each year), notify the Section 151 Officer in writing, of all outstanding invoices relating to the previous financial year.
  9. When it is a condition of trade that payment accompanies an order, it will be the responsibility of the certifying officer to ensure that goods and services are received.
  10. Corporate Managers are responsible for prompt submission of invoices (in the prescribed format) for payment to ensure compliance with BVPI8.
  11. All invoices that have previously been in dispute should be marked as such in the special instructions box of the accompanying front sheet, including a brief description of the dispute.
  12. All suppliers should be asked to quote on all invoices the name of the ordering section, the order number, the contract reference where applicable and the place where the work was done or the goods delivered.

## **BANKING ARRANGEMENTS**

### **F.R.13 BANKING ARRANGEMENTS**

1. Arrangements with the Council's bankers, including tendering for services shall be the responsibility of the Section 151 Officer, subject to procedures contained in F.R.6.
2. Cheques drawn on the Council's bank accounts shall bear the name of the Section 151 Officer and/or be signed manually by Officers nominated and included on the Council's mandate issued to the Council's bankers.
3. All cheques with a value of £10,000 or greater shall bear a manual second signature of an Officer approved by the Council.
4. All BACS release documents shall be authorised by an employee or member of staff nominated by the Section 151 Officer. All payments exceeding £10,000 shall be checked by this employee as part of this process.
5. Bank account reconciliation should be undertaken on a monthly basis.

## **SALARIES AND RELATED PAYMENTS**

### **F.R.14 SALARIES AND RELATED PAYMENTS**

1. The payment of all salaries, wages, compensation and other emoluments to employees, or former employees, and deductions there from shall be the responsibility of the relevant Corporate Manager in charge of Finance.
2. The appropriate Corporate Manager shall notify the relevant Corporate Manager in charge of Finance as soon as possible, and in the form prescribed by him, of all matters affecting the payment of salaries, wages or emoluments and, in particular –
  - (i) appointments, resignations, dismissals, suspensions, secondments and transfers,
  - (ii) absences due to sickness and other reasons (excluding annual leave and flexitime),
  - (iii) information necessary to maintain records of service for superannuation, income tax, national insurance, etc.
3. The Chief Executive is required to maintain a record of the Council's approved establishment.
4. Appointment of all employees shall be made in accordance with the Regulations of the Council, approved establishments, grades and rates of pay. Grades shall be subject to the Council's Job Evaluation

process. Payments for overtime to salaried staff must be made in accordance with the guidance notes issued to all Corporate Managers by the Chief Executive.

5. Overtime claims, in a form approved by the Section 151 Officer, shall be certified by, or on behalf of, a Corporate Manager for all staff and submitted to the Section 151 Officer. The names of employees authorised to certify overtime claims, together with specimen signatures, shall be approved by the Section 151 Officer. Facsimile signatures are not permitted.
6. In applying conditions of service, Corporate Managers shall consult with the Chief Executive.

#### **F.R.15 TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES – Members and Officers**

1. Payments to eligible Members (including co-opted Members of the Council or its Committees) for allowances will be made by the relevant Corporate Manager in charge of Finance – Claims in respect of attendances, duly certified, should be submitted to the relevant Corporate Manager in charge of Finance by the 10th day of the following month. The certifications shall mean that Members are entitled to the allowances and that no part of the sum claimed could have been, or will be, claimed from another source. Members are personally responsible for ensuring that their vehicle insurance cover includes journeys on behalf of the Council.
2. All claims for payment of employees' car allowances, subsistence or other related expenses shall be submitted, properly certified, to the relevant Corporate Manager in charge of Finance for payment by the 10th day of the following month. All travelling, subsistence and other allowances, shall be paid through the Council's payroll system. 'Cash in hand' and other non-PAYE payments are not permitted under any circumstances.
3. Certification of expenses claims shall in all instances be made by the claimants' line manager, with the exception of the Head of Paid Service whose claim should be certified by the Section 151 Officer or Monitoring Officer. The names of employees authorised to certify the claims shall be sent to the relevant Corporate Manager in charge of Finance by Corporate Managers together with specimen signatures. The certifications shall mean that claimants possess a valid driving licence and their vehicle insurance includes cover for business use.
4. Employees are required to provide proof of valid driving licence and insurance cover annually to the Section 151 Officer. Failure to do this will invalidate travel claims.

5. Claims submitted more than six months after the expenses have been incurred shall be paid only under extenuating circumstances, as approved by the Corporate Manager and counter-signed by the Monitoring Officer or Head of Paid Service.

#### **F.R.16 PAYMENTS TO/FROM EMPLOYEES.**

1. Relocation costs for new employees will be paid by the Section 151 Officer in accordance with the approved scheme.
2. Payment of professional subscriptions, home telephones and essential user allowances must be approved by the Section 151 Officer, in accordance with approved schemes.
3. If an external qualification course has been arranged and the employee decides to 'drop-out', the employee will be liable for any course fees incurred. It is the Line Manager's responsibility to inform the Personnel Officer if this situation arises.
4. Funding will normally be granted for the first attempt at an examination. Should the employee fail to be successful then additional costs must be met by the employee. When the employee is successful then the costs associated with that particular retaken examination will be reimbursed to the employee.
5. Study leave and/or financial assistance is granted on the condition that the employee agrees to remain within the Authority for a period of two years from the date on which the qualification is obtained or the date of study ceases. Employees leaving the Authority's service and failing to honour this obligation may be required to repay one twenty-fourth of the total grant for each remaining month of the two year period.
6. Employees attending approved courses are entitled to receive payment of -
  - the course fee
  - examination entry and/or exemption fee
  - student membership of a professional body where membership is a condition of entry to that body's examination
  - the cost of excess fares, i.e. the cost of travel to the course or on an educational visit less the cost of the normal home to office journey. If public transport is not used and employees choose to travel by car they will be paid a mileage allowance based on the lowest Essential User Mileage Rate
  - Accommodation costs when attending block release courses. Prior application should be made for this allowance via the Personnel Officer (Employee Development)
  - subsistence, by way of the payment of 'Tea Allowance' where the course finishes at 7.00pm or later and 'Lunch Allowance' in respect of educational visits and placements or examinations taken away from the normal college

- the cost of course books (against the production of receipts) up to a maximum value as stated in the training and development policy for each academic year of the course
  - reasonable expenses, approved in advance by the Corporate Manager, for the production of a thesis or project
7. Staff attending approved short courses will be reimbursed the following expenditure subject to the production of receipts/proof of purchase -
- the course fee (where not paid directly by the Council)
  - the travelling expenses (public transport or mileage at the lowest Essential User Mileage Rate) incurred in travelling to and from the course
  - subsistence expenses actually incurred based on the Council's current rates
  - "out of pocket" expenses (as specified in 'car allowances and subsistence') per night for staff attending residential courses.

## **INTERNAL CONTROL, AUDIT, FRAUD AND IRREGULARITIES**

### **FR.17 INTERNAL CONTROL**

#### **AUDIT FRAUD AND IRREGULARITIES**

1. Internal control is the system of control devised by management to help ensure the Council's objectives are achieved in a manner which promotes economical, efficient and effective use of resources and that the council's assets and interests are safeguarded.
2. The Council's asset register will be maintained and regularly agreed to the council's estate to ensure that property, plant and equipment are correctly accounted for.
3. The Section 151 Officer is responsible for advising the Corporate Managers on effective systems of internal control. These arrangements need to ensure that all statutory and corporate requirements and other relevant statements of best practice are met. They should ensure that public funds are properly safeguarded and used economically and efficiently and in accordance with the statutory and other authorities that govern their use.
4. Corporate Managers are responsible for establishing, in line with that guidance, sound arrangements for planning, appraising, authorising and controlling operations in order to achieve continuous improvement, economy, efficiency and effectiveness in the use of resources in the delivery of their service and the achievement of their financial performance targets.

## **F.R.18 INTERNAL AUDIT**

1. The Chief Executive in charge of Audit shall ensure that a continuous internal audit service is provided to carry out examinations of accounting, financial and other operations of the Council, in accordance with the CIPFA Code of Practice.
2. The Chief Executive in charge of Audit shall arrange for the provision of annual and strategic audit plans and consult with Corporate Management Team on their contents. These plans shall be reviewed at least six-monthly.
3. The Council's Section 151 Officer, Chief Executive in charge of Audit and/or Audit Manager, shall have authority to:
  - (i) Enter, at all reasonable times, on any Council premises or land,
  - (ii) Access all records, documents, and correspondence relating to any financial and other transactions of the Council,
  - (iii) Obtain explanations as necessary concerning any matter under examination, and
  - (iv) Require any employee of the Council to produce cash, stores or other Council property under their control or for which they are responsible.
4. Quarterly statements of activity shall be submitted to the Cabinet.
5. The Council's Section 151 Officer will sign off the annual audit plan and quarterly performance reports submitted by the Internal Audit Manager as provided by the South West Audit Partnership (SWAP).

## **F.R.19 FRAUD AND IRREGULARITIES**

1. Where any employee has reason to believe an irregularity concerning Council property or transactions has occurred, they shall report the details in accordance with the Fraud Response Plan approved by the Council.

## **INCOME**

### **F.R.20 INCOME**

#### *General*

1. The collection of income due to the Council shall be under the supervision of the appropriate Corporate Managers, although the responsibility for its collection shall remain with the Section 151 Officer.

#### *Setting of charges*

2. Each Corporate Manager shall, at least annually, and in consultation with the Section 151 Officer, review all charges made by the Council falling



within their area of responsibility. Approval for the reviewed charges should be obtained from the Finance Portfolio Holder and Section 151 Officer, for key income lines however recommendations should be submitted to The Cabinet for approval. The Section 151 Officer shall be consulted upon any proposal to introduce new charges. All charges will be automatically increased in accordance with inflation uplift as agreed by the Section 151 Officer, with appropriate rounding, unless the Corporate Manager justifies an alternative.

*Accounting systems for the issue of accounts for collection of income*

3. Each Corporate Manager shall be responsible for ensuring accounts are issued in line with the Council's debt collection process promptly to recover income due, and that these debts are recorded in the Council's accounts. All accounts raised (for miscellaneous income) shall be through the Council's sundry debtor system and raised within 30 days of the 'tax point' or date that the service was provided.
4. Accounts shall not be raised for sums due below the de minimus level (currently £50).
5. No employee should raise invoices or make amendments on accounts for themselves, their family or close friends.
6. All sums collected shall be identified to the related account. Where there is uncertainty regarding which account is being settled, sums shall be credited to the oldest account in all cases.
7. Individual outstanding debts up to £5,000 may be written off by the Section 151 Officer. All sums, from all sources, exceeding £5,000 must be submitted to the Cabinet for approval, including those considered by any panels appointed by the Council or by the Cabinet. Sums shall not be considered for write off until all reasonable avenues of collection have been explored and collection proved unsuccessful. Evidence of such actions must be retained.
8. All debts over £100 credit noted/cancelled must be submitted, by the relevant Corporate Manager, on a monthly basis to the Section 151 Officer for approval –
  - (i) All unallocated income shall be dealt with on a daily basis by either allocation to the correct account or refund, whichever is applicable.
  - (j) Reconciliation of subsidiary systems with the General Ledger should take place monthly (by the last working day of the following month) and be reported to the Section 151 Officer (or his/her nominated deputy).

*Stationery*

9. Each Corporate Manager shall be responsible for the storage, supply and issue of all controlled stationery appropriate to their Service.

*Collection of money by cash, cheques, credit/debit cards or similar*

10. All remittances shall be recorded upon receipt and passed by the receiving officer to the Cash Office promptly. No deduction shall be made from such income except that which the Section 151 Officer specifically authorises in writing. Monies retained must be held securely, and in accordance with insurance requirements.
11. Each individual cheque banked must be identified separately.
12. Personal cheques must not be exchanged for cash held on behalf of the Council.

**APPENDIX 'A'**

13. As per (5) no employee should receive cash or other money for their own account or that of their family or close friends.
14. All transfers of Council's cash or cheques from one Officer to another shall be evidenced by the signature of the receiving Officer, in a manner approved by the Section 151 Officer.
15. Acknowledgements for money received on behalf of the Council shall not be given by any Officer except on an official receipt form or recorded on a cash register till located in Council premises. This regulation does not apply to legal documents prepared by the relevant Corporate Manager in charge of Legal Services.
16. The Corporate Manager with responsibility for the Cash Office shall be responsible for ensuring that monies received through the Cash Offices are deposited with the Council's Bank daily. Where the monies are collected by a third party, the liability of the Corporate Manager with responsibility for the Cash Office shall be restricted to ensuring that monies are passed to an authorised representative and this transaction is signed as evidenced.

**INSURANCES**

**F.R.21 INSURANCES**

1. The Section 151 Officer shall effect all insurance cover, including appropriate officers and Members indemnities, investigate and negotiate all claims, in consultation with other Officers, when necessary, and renegotiate revised terms with insurers at appropriate intervals.
2. Corporate Managers shall give prompt notification, in writing, to the Section 151 Officer of all new risks, properties, vehicles or equipment which require to be insured and of any changes in circumstances which affect existing insurances. Similarly, the employee responsible for insurance administration shall immediately notify Corporate

Managers of any changes to practice required or advised by the Council's Insurers.

3. Corporate Managers shall immediately notify the Section 151 Officer, in writing, of any loss, liability, damage or any other event likely to lead to a claim and inform the police if required to comply with insurance policy conditions.
4. All employees of the Council shall be included in a suitable fidelity guarantee policy.
5. The Section 151 Officer shall, at least every year, review all existing cover, in consultation with other Corporate Managers as appropriate.
6. Corporate Managers shall consult with both the Section 151 Officer and the Corporate Manager in charge of Legal Services concerning the terms of indemnities, which the Council is requested to provide. In the event that this is the same person, the Chief Executive will provide this role.
7. Corporate arrangements for the management of risk are under the direction of the Corporate Manager responsible for risk and performance. These arrangements to include a strategy, in accordance with the adopted Insurance and Risk Management Policy Statement, to continuously assess the Council's exposure to risk.
8. Members or employees of the Council who intend to travel abroad on official business must inform the Insurance Officer to ensure that the necessary insurance cover can be arranged.

## **TREASURY MANAGEMENT**

### **F.R.22 TREASURY MANAGEMENT**

1. The Council has adopted the key recommendations of the CLG's Guidance on Local Government Investments ("the Guidance") and the 2011 revised CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes ("the CIPFA TM Code").
2. Accordingly, this Authority will create and maintain, as the cornerstones for effective treasury management –
  - a treasury management strategy statement (TMSS), stating the policies and objectives of its treasury management activities;
  - suitable treasury management practices (TMP), setting out the manner in which the organisation will manage and control those activities.

3. The Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its close, in the form prescribed in its TMPs.
4. The Council delegates responsibility for the execution and administration of treasury management decisions to the Section 151 Officer, who will act in accordance with the Council's TMPS and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

## **APPENDIX 'A'**

### **SECURITY**

#### **F.R.23 SECURITY**

1. Each Corporate Manager is responsible for maintaining proper security at all times or all premises, stocks, stores, furniture, equipment, cash records, etc. under their control.
2. The Corporate Manager responsible for Information Technology is responsible for the security of voice and data communications.
3. Cash retentions, excluding recorded cheques, shall not exceed the insured maxima, except with the specific authority of the Section 151 Officer, in writing.
4. Keys to safes and similar receptacles must remain in the custody of the responsible employees at all times; the loss of any such keys must be reported to the Section 151 Officer immediately. Corporate Managers shall ensure that all keys, identity cards and any equipment, etc. issued to individual employees are recovered when they leave the Council's employment or obtain an alternative post in the Council (as appropriate).
5. The Corporate Manager responsible for Human Resources shall provide adequate facilities for the issue and reissue of identity cards

### **RECORDS MANAGEMENT**

#### **F.R.24 DATA PROTECTION**

1. Corporate Managers shall notify the employee responsible for the Council's Data Protection of all changes, which are likely to affect the existing notification.
2. The employee responsible for the Council's Data Protection shall have access to all relevant documentation and receive sufficient

information to enable the notification to be kept up-to-date and to fully satisfy the Principles prescribed in the legislation.

3. Each Corporate Manager shall nominate a service representative to the employee responsible for the Council's Data Protection.

#### **F.R.25 MAINTENANCE OF RECORDS**

1. The Council's policy for the retention and disposal of all records and documents shall be in accordance with legislative requirements in respect of matters pertaining generally to contracts, employment, taxes, land and property as defined in the Council's retention policy.

#### **HOUSING BENEFITS**

##### **F.R.26 HOUSING BENEFITS**

1. The Corporate Manager responsible for Benefits shall be responsible for the administration and processing of all claims for Housing Benefit, in accordance with the appropriate regulations. Reports demonstrating performance associated with fraud enquiries to be submitted, on a regular basis, to The Cabinet.
2. The Corporate Manager responsible for Benefits shall ensure that the Section 151 Officer is supplied with all information necessary to support the submission of subsidy claims and other financial statements that may be required.
3. The Corporate Manager responsible for Benefits shall ensure that secure arrangements exist to properly control the issue, custody and return of all Council cheques in respect of rent allowance payments in line with standards set by the Section 151 Officer. Cheques shall be drawn on a separate account for this purpose, and will be reconciled on a monthly basis by the Section 151 Officer.

#### **BEST VALUE**

##### **F.R.27 BEST VALUE**

1. The Chief Executive shall have overall responsibility for ensuring that all Regulations pertaining to Best Value are fully complied with.
2. A continuous review of service delivery will be undertaken by Corporate Managers to ensure compliance with the Best Value standards and principals.

##### **F.R.28 WORKING IN PARTNERSHIP**

1. The Council provides a distinctive leadership role for the community and is able to bring together the contributions of various

participants/stakeholders by participating in various partnership/joint working arrangements; as a result, it is able to achieve the promotion or improvement of the economic, social or environmental well being of its area.

2. The Cabinet is responsible for approving the operational framework for the Council's participation in all strategic partnerships/joint working arrangements with other local public, private, voluntary and community sector organisations; this includes the arrangements for delegation to officers and the detailed arrangements for the provision of both financial and physical resources by the Council.
3. In some cases, Lead Members are responsible for approving the operational framework of partnerships, joint working arrangements with other local public, private, voluntary and community sector organisations, which affect their portfolio areas.
4. The Head of Legal Services, Section 151 Officer and Corporate Managers are responsible for promoting and maintaining within all partnership/joint working arrangements the same high standards of conduct with regard to the legal, corporate governance and financial affairs which are detailed in these Financial Regulations and Financial Procedures and elsewhere, and which are applied throughout the Council.

The Section 151 Officer is responsible for:

- (i) Advising Corporate Managers on the need for, and, if appropriate, for appraising and approving the relevant Corporate Managers' risk assessment of the proposal before any commitment is made for the Council to participate in a partnership or joint working arrangement or scheme; and
- (ii) Specifying the accounting and auditing arrangements to be adopted and approving arrangements, if the Council is to be the lead authority.

Corporate Managers are responsible for:

- (i) Ensuring that before committing the Council's participation in a partnership or joint working arrangement or scheme, or before seeking the approval of the Cabinet to such participation, they consult with the Section 151 Officer on the need to prepare a risk assessment of the proposal, and if appropriate, obtaining his or her approval to it;
- (ii) Ensuring that the approval of the Cabinet is obtained before any negotiations are concluded where the Council's participation is of a material nature;
- (iii) Ensuring that all agreements and arrangements are properly documented, including details of the Council's financial and physical commitment to the arrangements which are to be in accordance with procedures specified by the Section 151 Officer;

- (iv) Observing the Council's standard of conduct for staff whilst having due regard to the partnership or joint working arrangement's governance framework;
  - (v) Ensuring that the body or person maintaining the accounting and auditing arrangements do so to a standard acceptable by the Section 151 Officer in those cases where, under the approved arrangements, the Council is not to be the lead authority but the Council's participation is of a material nature; and
  - (vi) Providing appropriate information to the Section 151 officer to enable him or her to include relevant details in the Council's Statement of Accounts, and other financial statements and returns.
5. External Funding - The Section 151 Officer is responsible for providing specific guidance to Corporate Managers to enable them to account properly for funding receivable from external sources.
6. Work for Third Parties - The Section 151 Officer is responsible for providing specific guidance to Corporate Managers in respect of contractual arrangements for the provision of services to third parties or external bodies.







# CONTRACT STANDING ORDERS

July 2011





## **West Somerset District Council Contract Standing Orders**

### Issue details

Title:	Contract Standing Orders
Issue and version number:	1/2
Officer	Steve Watts
Authorisation Level:	Corporate Management Team/Scrutiny Committee/Cabinet /Full Council
Authorisation Date:	July 2010
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### Contract Standing Orders

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## 1. Introduction

- (a) This document sets out the Contract Standing Orders (the CSOs) that officers at WSDC must follow when spending money on the goods, services and works needed to deliver our services to the people of West Somerset. The CSOs also set out how to handle the disposal of any Council assets that are no longer required. This is an important document and it forms part of the Council's Constitution.
- (b) Our CSOs have three main purposes:
- to obtain Best Value in the way we spend money, so that we may in turn offer Best Value services to the public;
  - to comply with the laws that govern the spending of public money; the CSOs are the internal rules that officers must follow in dealing with any procurement or disposal;
  - to protect individual officers from undue criticism or allegation of wrongdoing. Following the CSOs will give an officer comfort that s/he has acted properly whilst failure to follow the CSOs is disciplinary offence.
- (c) In addition, this document gives general guidance and good practice in the procurement process and officers should have regard to this when setting out their own procurement process. Where general guidance appears to conflict with the CSOs then the CSOs have precedence. Where Officers are unclear which aspects are CSOs and which guidance they should seek advice from the Corporate Manager Environment, Customer and Community.
- (d) Each Group Manager must ensure that officers within their service area having responsibility for procuring contracts (the Responsible Officer(s)) have received adequate training on the role and are aware of and follow the CSOs and guidance when letting contracts. The Group Manager must also ensure that budget arrangements are in place to fund the procurement and that appropriate liaison with officers in other services takes place as necessary to maximise joint procurement opportunities.
- (e) The CSOs:
- set out the standard procedures to be followed but further advice should be sought from the Group Manager with responsibility for procurement or if so advised in these CSOs;
  - seek to get the best deal by using our shared buying power wherever possible including using corporate contracts where these have been negotiated e.g. stationery contracts;
  - allow a robust audit trail to be produced

- enable statistical and other information to be collected to comply with the law and to enable us to understand the “big picture” of our spending so we can plan, measure and improve the efficiency of our procurement
  - are written to make them easy to understand and the meanings of technical terms are given in a glossary at the end of the document.
- (f) Further advice on any aspect of these CSOs or on procurement matters in general can be obtained from the Corporate Manager with responsibility for procurement.

## **2. How the CSOs are organised**

- (a) Some types of procurement are excluded from or are exempt from the CSOs in total or in part and these are set out in Section 3 below. Approval is needed for some exemptions and, in all cases, appropriate records must be kept to identify and justify the exclusion or exemption relied upon.
- (b) General points to be considered or followed in all procurements are set out in Section 4 below
- (c) The CSOs applying to most types of procurements are set out according to the different value ‘bands’ for the procurement in question with the higher value bands needing a more rigorous process. These bands are set out in Section 8 with advice on how to estimate the value of the procurement is set out in Section 7. In principle, the greater requirements for the higher value procurements reflect the greater risk to the Council involved in these contracts. Where the contract, although low value, is high profile for the Council or is likely to represent a high risk then it is advisable to follow a more rigorous process set out for a higher value band. Officers should seek advice if there is any doubt as to the best process to follow.
- (d) The CSOs cover 3 types of procurement – those relating to purchasing goods, those concerning the undertaking of services or those involving the execution of works on behalf of the Council. Although the CSOs are broadly the same slightly different considerations may apply to each type of procurement and, where this is the case, these are highlighted.
- (e) The CSOs and guidance on European law are covered in Section 5. Where these laws conflict with these CSOs and/or UK domestic law the European law will take precedence so it is very important to read this section.
- (f) If the procurement may involve the transfer in or out of staff (insourcing or outsourcing) then special considerations and laws apply and urgent preliminary advice should be sought from the Group Manager before commencing the procurement.
- (g) The CSOs and guidance relating to the tendering process from start to finish is set out in Section 9. This section represents good practice for the smaller value procurement bands but must be followed for the higher value bands i.e. over £50,000.

### 3. Exclusions and Exemptions

Note: no exemption or exclusion is possible where this would conflict with the Council's obligations or duties under the European law.

#### 3.1 Exclusions

- (a) For the avoidance of doubt these CSOs shall not apply to:
  - (i) the sale, leasing or purchase of land or of any interest in land;
  - (ii) any contract of employment (but see Section 2(f) above);
  - (iii) purchases by auction, or second hand or used items where very limited choice exists;
  - (iv) grants to external organisations.
- (b) Where there is any query about whether the Procurement in question falls within any of the Exclusion categories further advice should be sought from the Corporate Manager Environment, Customer and Community.

#### 3.2 Exemptions available automatically

- (a) Tenders shall not be required for the following procurements: -
  - (i) Where a condition of civil emergency or a major crisis affecting the Council or the community at large, such that exceptional decisions need to be made in exceptional circumstances as a matter of urgency, then delegated authority will fall, automatically, to the Group Manager involved to make the procurement decisions necessary without following the CSOs where this hinders dealing effectively with the emergency.
  - (ii) Where the Responsible Officer orders work to be executed or goods or materials to be purchased or services to be supplied in rapidly changing circumstances to meet the emergency and the value of such orders exceed £50,000, a full report must be made to the next Cabinet meeting outlining the reasons for the exemption being used and the extent of its use.
  - (iii) Where an extension of an existing contract is permissible – see below under 'Extensions'.
- (b) Where the Council is acting as agent for another authority rather than procuring on its own behalf then that other authority's standing orders and requirements concerning contracts must be followed instead. Any arrangement to act as agent for another authority must itself be authorised by the appropriate officer or committee;
- (c) Where another local authority, public body or consortium of local authorities or public bodies has secured beneficial arrangements for the future of the goods, works or services and it is lawful for the Council to make use of such arrangements – see below under Other Types of Procurement;

#### 3.3 Exemptions available subject to prior written approval

- (a) For contracts between £50,000 and the EU threshold in value, the following exemptions may be given with the written approval of the Executive Director who will record of each such approval with reasons for it being granted: -
  - (i) Where a contract for the execution of works or the undertaking of services or the supply of goods involves highly specialised technical, scientific or artistic knowledge such that it is not possible to achieve competitive tenders;
  - (ii) Where the work to be executed or the goods or materials to be supplied consists of repairs to or the supply of parts for existing machinery or plant or are additions to an existing style or design which would involve the council in greater cost and additional work in trying to harmonise two differing systems, designs or solutions;
  - (iii) Where the purchases are of patented or proprietary items and any form of tendering would not be appropriate.
- (b) An exemption may be given with the written approval of Corporate Management Team who will ensure that a record is kept of each such approval with reasons for it being granted where the Responsible Officer can prove that exceptional circumstances exist, such that compliance with these CSOs would have put the council or a particular project at risk of failing to reach external funding deadlines
- (c) An exemption may be given with the approval of Cabinet where any class or category of procurement which has been made exempt by resolution of Cabinet or any authorised committee for a given period or specific project (which must be defined);
- (d) No exemption can be used if the EU procedure applies.

#### **4. General Points to be followed**

- (a) Every purchase made by the Council is a procurement and is legally a contract whether made in writing or verbally or by implication. Use of the terms 'procurement' and 'contract' is interchangeable and no special significance should be drawn from the use of either term in these CSOs. Similarly, there is no fundamental difference between the terms 'quotation' or 'tender' - both represent the contractor's 'offer' – usually the price to be paid - to provide the goods, services or works in question. The latter term tends to be used for the more formal process used in higher value procurements.
- (b) Every procurement undertaken/contract entered into by the Council must comply with these CSOs and no exception may be made otherwise than under the exclusions and exemptions set out in Section 3.
- (c) Every procurement must comply with:
  - all relevant statutory provisions;
  - the relevant European law;
  - the Council's constitution including, these CSOs, the Financial Regulations and the Scheme of Delegation;
  - the Council's strategic objectives and policies including the Procurement Strategy.



- (e) Whistleblowing - all contractors must be given a copy of the Council's Whistleblowing Policy.
- (f) Equality and Diversity - all contractors must be advised of the Council's legal duties to promote equality and remove discrimination in the provision of its services. Each contractor, and any subcontractors they are permitted to use, must follow (and given a copy if possible) such Equality and Diversity Policies as the Council has produced and are relevant to the procurement concerned. Equality factors can and should play a part in the selection of contractors and the evaluation of contracts and the Group Manager Environment and Services can give advice on how these aspects may be incorporated into the procurement process.
- (g) Insurance - For all contracts, Responsible Officers should assess the risks involve in the procurement and require the contractor to provide an appropriate level of indemnity and insurance against any significant risk identified where the council could face liability. This should including public liability insurance cover and, where the service is being outsourced or may be insourced, an indemnity to cover liabilities that may arise under the Acquired Rights Directive, the Transfer of Undertakings (Protection of Employment) Regulations 2006 and the Code of Practice for Workforce Matters. Further advice on insurance matters is available from Finance.
- (h) Parent Company Guarantee/Performance Bond etc - the financial standing of a possible contractor to provide goods or services or undertake works for the Council should be assessed at the earliest opportunity. Where this assessment of financial standing identifies a significant financial or service risk if the contractor was appointed and the Responsible Officer still wishes to include the contractor on a shortlist of tenderers or wishes to award the contract to that contractor, then either a Parent Company Guarantee (PCG), a Performance Bond or some other satisfactory arrangement to protect the Council's interest will be required e.g. including a provision in the contract to retain part of the payment due in case the contractor defaults. Advice regarding assessing financial standing, drafting and securing suitable PCG/Bonds or other arrangements should be sought from the Corporate Manager Environment, Customer and Community or Finance.

Where a parent company guarantee is used the Responsible Officer should ensure that the 'parent' is capable of performing the contract on the contractor's behalf if this become necessary.

- (i) Internal Controls - all Group Managers when implementing the requirements and procedures as specified in these CSOs shall ensure that adequate internal controls are in place and are operating effectively.
- (j) Exclusion of contractors – There are circumstances where the Council may exclude a tenderer from taking part in a procurement exercise or may disqualify its tender. For example, where the Council finds that a contractor has breached competition law e.g. by involvement in collusive bidding practices or cartels it

may use its automatically exclude that tenderers from participation in a bid. The Council may decide to admit such a tenderer where evidence is presented to satisfy the Council that the contractor has taken sufficient steps to regularise its tendering practices. Similarly, where a contractor has failed to follow the Code of Practice for Workforce Matters etc with regard to terms and conditions of staff that transferred to it then such a contractor may be excluded from future tendering opportunities. In all cases where it may be necessary or desirable to exclude a particular contractor it is advisable to seek advice first from the Corporate Manager Environment, Customer and Community.

## **5. Compliance with European Law**

- (a) All contracts made by the Council or on its behalf must comply with European law and, in particular, the EU CSOs. The EC CSOs apply to written contracts with an estimated value (see section 7 on how to calculate this) above specified thresholds. Different thresholds apply depending upon whether the procurement is for goods, services, or works, and are set out below.
- (b) Where this Directive applies its detailed provision must be followed and these are set out in the corresponding UK Public Procurement Regulations (the Regulations). The Regulations cover, amongst other matters, how the procurement must be specified and advertised, how tenderers are selected, evaluation criteria and award. Specific notices and formats must be followed and because of the complexity of such CSOs advice should be sought from the Corporate Manager Environment, Customer and Community.
- (c) The current thresholds from 1<sup>st</sup> January 2008 are: -
  - Appointment of Consultants above EC Limit (£139,893)
  - Purchase of Goods above EC Limit (£139,893)
  - Purchase of Services above EC Limit (£139,893)
  - Commissioning of Works (e.g. buildings, bridges and other civil engineering schemes) above EC Limit (£3.5 million)
- (d) Where the contract is one of a series that, whilst each is under the threshold, the total if aggregated would exceed the threshold then, again, advice from the Corporate Manager Environment, Customer and Community.
- (e) Where the value of any procurement would exceed the threshold set out in (c) or is within 5% of it, then the procurement should be treated as falling within the EC CSOs threshold and further advice must be sought before any procurement action starts.
- (f) Officers should be aware that the European courts have extended the scope of the Directive and European law generally so that some transactions not traditionally thought of as being 'caught' are now covered. For example, the Directive covers all expenditure by the Council (except some narrow, specified exclusions set out in the Directive) including, for example, transactions where the works are undertaken by the private sector but 50% or more is funded by the Council or from Lottery or Government grants or other parts of the public

sector. Further advice should be sought from the Corporate Manger Environment, Customer and Community if an officer is in any doubt as to whether the Directive or an aspect of European Law applies.

- (g) Even where the value of the contract is below the thresholds set out in (c) the general requirements of European law (as set out in the Treaty of Rome as amended) still apply. This means that the following principles should be followed in all procurements as far as possible: -
- (i) Equal treatment – e.g. not giving more information to one company compared to another;
  - (ii) Non-discrimination - e.g. not treating less favourably contractors/suppliers from other nationalities;
  - (iii) Transparency – e.g. being open and up-front about the CSOs, procedures and processes you will use for the procurement and a how decisions have been made. This also covers providing sufficient advertising of the fact that procurement is taking place so firms can make enquiries/challenges;
  - (iv) Proportionality - making the means proportionate to the ends – e.g. not asking for excessive or irrelevant information where less would be adequate;
  - (v) Mutual recognition – e.g. being willing to assess whether other countries standards, qualifications etc, are equivalent to UK ones or good enough for the matter in question.

## **6. Contract Strategy/Getting Started**

- (a) These CSOs govern any option that results in payment or a contract. This means taking a step back from the traditional procurement process and assessing the options available. This process applies particularly to the provision of services. Under Best Value legislation, officers are required to complete a formal, evidence-based analysis when considering options for the delivery of a service (though the principles could be applied equally to goods or works).
- (b) The Responsible Officer must assess the purchase, taking into account its complexity and value by:
- taking into account the requirements from any relevant value for money review;
  - assessing the need for the expenditure and its priority;
  - defining the objectives of the purchase;
  - assessing the risks associated with the purchase and how to manage them;
  - considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium;
  - consulting users as appropriate about proposed procurement method, contract standards and performance and user satisfaction monitoring;
  - drafting the terms and conditions that are to apply to the proposed contract;
  - setting out these matters in writing if the total value of the purchase exceeds £50,000.

N.B. Further guidance on options analysis may be obtained from the Corporate Manager Environment, Customer and Community.

## **7. Estimating the Procurement Value**

- (a) The dividing up of contract values to avoid the more stringent requirements of higher spending limits is strictly forbidden although it is acceptable to package contracts in a way which allow the council to obtain more competitive prices or better value. Every effort must be made to assess, accurately, the full cost of the procurement, and this should include, any maintenance contracts, optional extras and updates etc.
- (b) The contract value is the estimated cost of the contract over the whole period of contract (four years if ongoing). Therefore, for example, a contract for four years with a cost of £20,000 per annum has a total value of £80,000.
- (c) Where the estimated value is under the threshold but within 5% of the EU threshold you must seek further advice from the Group Manager Environment and Services – see 5(e) above.
- (d) The monetary amounts included within these CSOs refer to the value of the contract (excluding VAT) including all elements over the lifetime of the contract.

## **8. Financial Categories/Bands**

- (a) These are the minimum requirements to be followed when purchasing goods, services, or works for the Council. Where the procurement is high profile or represents a significant risk to the Council or customers then a more extensive procedure relating to one of the higher values should be followed. Officers should seek further advice from the Corporate Manager Environment, Customer and Community in case of doubt.

### **8.1 Transactions up to £10,000**

- (a) For contracts under £10,000 the responsible Officer must take reasonable steps to demonstrate that s/he is obtaining value for money from the procurement. Verbal offer(s) must be confirmed in writing including a clear description of the goods/services being procured to ensure absolute clarity of what is being purchased. This avoids any misunderstanding and to provides a good audit trail.

### **8.2. Transactions £10,000 to £50,000**

- (a) The Responsible Officer shall obtain a minimum of three written quotations.
- (b) A written quotation must be obtained from the chosen contractor before a formal purchase order is issued or a contract concluded. The relevant goods, services, or works must be specified in sufficient detail (see below on 'Specifying the Contract') and the agreed contract conditions (see below on

'Contract Conditions') included e.g. price and terms of payment, timescales, performance standards. A faxed (or email quote) is acceptable in these cases.

- (c) If less than three quotations are received then the Responsible Officer can accept the quote which best meets the award criteria chosen (see 'Evaluation of Tenders' below), however, a written record must be kept on file outlining the circumstances and why this tender represented value for money.

### 8.3 Transactions £50,001 – European Directive Threshold (see '5'(c))

- (a) A more detailed specification must be provided identifying the Council's requirements for the goods, the services or the works in question (see below on 'Specifying the Contract');
- (b) All relevant contract conditions (see below on 'Contract Conditions') must be included and an appropriate framework for monitoring and reporting performance put in place to ensure compliance with the contract.
- (c) Responsible Officers should follow the CSOs and guidance set out in Section 9 too concerning the tendering process unless the special types of processes outlined in section 10 are to be followed. Advice on these special procurement options is available from the Corporate Manager Environment, Customer and Community.

### 8.4 Works Procurements over the European Directive Threshold (see 5(c))

- (a) For transactions valued at over £139,893 prior advice of the proposed tender process must be sought from the Corporate Manager Environment, Customer and Community.

## **9. The Tendering Process**

### 9.1 Types of tendering procedure

- (a) There are several types of tendering procedures that can be used and the Responsible Officer should select the procedure most appropriate to the procurement being undertaken.

#### (1) Open Procedure

- (a) The open procedure is a one-stage process so that every contractor who expresses an interest will be sent the tender documents and is invited to submit a tender/quotation.
- (b) Open procedure is used mainly where there are a limited number of providers in the market and so few tenders/quotation can be expected, as every bid is evaluated need to consider every bid.
- (c) The Responsible Officer must have prepared the tender documents e.g. specification, pricing schedule, contract conditions etc, by the time the

notice/advert appears so they can be immediately dispatched as and when a contractor expresses an interest.

- (d) The public notice/advertisement used must state the type, nature and purpose of the contract e.g. a 5 year grounds maintenance contract to maintain the footpaths within West Somerset, its value or value range, where further details and the tender documents can be obtained and stating the last date and time when applications will be accepted i.e. the closing date.
- (e) Where EC CSOs apply then there are prescribed time limits to follow throughout the process (see the Corporate Manager Environment, Customer and Community for more details). In all other cases, then adequate time should be allowed to enable those contractors who wish to tender to do so and the closing date must be set a minimum 10 working days after the public notice/advert appeared. The closing date must be selected to allow that enough time for the contractors to provide all the information and documents the tender document requires e.g. method statements, risk register pricing information, in many cases a month or more is appropriate.
- (f) The public notice/advert must be placed in one of the local newspapers circulating in the District and in such one or more trade journals, (if any), circulating among persons who undertake such contracts. In addition, where EC CSOs apply then Notices may need to be completed on line for insertion in the Official Journal of the European Union (seek further advice if this is the case)
- (g) See section 9 re conduct during the tender periods
- (h) On the Closing Date specified in the public notice/advert all the tender must be checked for errors and qualification and then evaluated according to the predetermined criteria set out in the tender document – see section 9 below re evaluation. In addition, checks on financial standing and health and safety policies and procedures should be undertaken, references on past performance taken up and all other relevant matters reviewed and confirmed as satisfactory.
- (i) See section 9 below re award and post award matters

## (2) Restricted Procedure

- (a) The restricted tendering process is a two stage process whereby those who express an interest in undertaking the contract are asked to complete a pre-tender questionnaire so that evidence of finances, technical ability etc can be gathered and used to short list which contractors are invited to tender.
- (b) This type of tendering allows you to restrict the number of tenders that you have to evaluate and so is appropriate where there is likely to be a lot of interest and/or a well-developed market.
- (c) Restricted tendering is also most useful where the tender documents e.g. specification, pricing schedule, contract conditions etc, are not finalised for dispatch at the time the notice/advert appears. By building in a shortlisting stage

it allows time for these documents to be developed whilst an initial assessment of the financial standing, references etc of those expressing an interest is carried out.

- (d) Whenever possible, an outline specification should be prepared for dispatch with the pre-tender questionnaire so the scope and extent of the contract is clear.
- (e) The Notice/advertisement should state that a restricted tendering procedure is being used and either the Notice/advertisement should specify the information to be provided by those interested in tendering or this information can be included in the pre-tender questionnaire instead. Details of where to obtain and return the questionnaire should be given in the Notice/advertisement.
- (f) The Notice/advertisement should state the closing date for expressing an interest and whether any late expressions will be considered. After this date all those who have expressed an interest should be assessed and a short list drawn up. CSOs on advertising contracts are set out below.
- (g) Short listing must be made against pre-determined objective criteria and the details of the factors should be included in the notice/advert or included in the pre-tender questionnaire sent to all those expressing an interest.
- (h) A financial evaluation is mandatory for all contractors before inclusion on a shortlist. This can be obtained from Support Services.
- (i) Other criteria that are recommended for use in the shortlisting stage are details of other contracts of a similar nature and value undertaken in the past 3 years (so technical references can be obtained evidencing relevant expertise or experience).
- (j) Where applicable, criteria, which reflect the obligations or policies of the Council, should be included. For example, health & safety policies/procedures; equalities and personnel policies, sustainable development etc. Potential candidates can be asked to demonstrate that they comply with applicable legislation or regulations or good practice and this information used to assess their suitability for inclusion on the shortlist.
- (k) Care should be taken in selecting the criteria to be used in the short listing stage as once criteria has been used at that stage then it may not be used again at the evaluation tender stage. For example, if references are taken up at the shortlist stage then they should not, normally, be either taken up again or reconsidered at the final selection stage.
- (l) Ideally, the shortlist criteria should help identify the contractors who meet a general suitability level to undertake contacts of this type and value whilst the tender evaluation criteria will help select the most suitable contractor to perform the contract itself. Therefore, it is possible to look at the same criteria again if another, more specific, aspect of that criteria is considered e.g. at short listing stage the assessment could be of the Contractor's health and safety policies

generally whilst at the final evaluation stage the specific risk assessments relating to the contract itself can be examined.

- (m) The extent and scope of the criteria used should be proportionate to the value or importance of the contract and care should be taken to ensure the requirements for contracts valued at under £50,000 are not unduly onerous.
- (n) Only those who meet the shortlist criteria should be invited to submit a tender. The minimum short list is 3 contractors where at least 3 contractors meet the criteria but in most cases 5-8 contractors would be appropriate to allow for some contractor's failing to tender and to ensure enough competitive bids are received. Where less than 3 contractors meet the criteria advice should be sought from the Corporate Manager Environment, Customer and Community and if EC CSOs apply then advice on minimum numbers should be sought anyway as different CSOs apply.
- (o) Where the number of those meeting the criteria after assessment is too large then the selection of an appropriate number can be based on any non-discriminatory basis e.g. drawing of lots.
- (p) A record should be kept of the shortlist chosen with the reasons for rejecting or accepting contractors onto the shortlist in case of challenge
- (q) The invitation to tender should specify, amongst other things (see below) a closing date for the return of completed tenders and this should be not less than three weeks after their despatch. In most case a longer period would be appropriate - see (1)(e) above re considerations to bear in mind.

### (3) Other types of Procedure

- (a) Where it is difficult to precisely specify the service, works or goods to be provided or there is some other reason why the Open or Restricted Procedure would be inappropriate, then advice on and authority to use other procurement processes e.g. Competitive Dialogue or Negotiated Procedure, should be sought from the Corporate Manager Environment, Customer and Community. Details of these procurement types are set out in section 10.

## 9.2 Advertising

- (a) Any contract, for the supply of goods or services or the execution of any work, which is estimated to exceed £50,000 in value but is below the relevant EC CSOs limits must be advertised by placing a public notice in at least one relevant local newspaper and one relevant trade journal
- (b) Advertising may not be necessary where: -
  - Where a corporate purchasing arrangement is in place that has already been approved by Committee, e.g. for stationery purchasing contract.
  - When accessing other framework agreements etc however, advice should be sought from the Corporate Manger Environment, Customer and Community where such access is required.



### 9.3 Specifying the Contract

- (a) The specification sets out what the contractor must provide in terms or undertake – in terms of goods, services or works - under the contract. The scope and detail included should be appropriate to the value of the contracts and the risks and impact involved in the procurement with lower value or lower risk procurements needing a briefer and less comprehensive specification.
- (b) For all procurements a written specification (or a clear description for procurements valued at less than £10,000) must be drawn up which clearly identifies the Council's requirements. The Responsible Officer should consider whether the specification ought to identify, amongst other things: -
- what is wanted, giving as much detail as possible e.g. if goods the size, colour, quality, thickness, speed, durability etc or if a service the details of the service, frequency, timescales; qualification and skills of staff etc;
  - where it is to be delivered – which office, which person, which desk, which location, which building;
  - the relevant standards of performance or quality required (the relevant European standard or its equivalent to be met);
  - when you want it – the relevant timescale(s) and/or deadline to be met for completion of the contract or project or any part of it e.g. by 'x' date, next week, every week for the next six months etc;
  - how the goods, services or works are to be priced – e.g. price for bulk purchases, list of prices (bills of quantities); is there a minimum number to be ordered (this can offer better value); what discounts are offered;
  - how and when payment is to be made including any provisions for interest for late payment e.g. payment after 'x' days, in advance, in stages, by cheque/BACS etc;
  - if any guarantee etc is required – e.g. servicing and maintenance or for a service contract an 'out of hours' or 'recall' service;
  - any default provisions which are to apply where the contractor does not perform as required or meet the standards laid down;
  - the situations under which the contract may be terminated and the provisions to apply upon termination e.g. transfer of assets and staff, return or transfer of data (including IT data) in a suitable format;
  - how disputes are to be resolved; and,
  - any reporting/statistical requirements.
- (c) Where the Responsible Officer wishes to use a particular sub-contractor or where a particular manufacturer or supplier must be used for the supply of goods or materials the advice should be sought from the Corporate Manager Environment, Customer and Community to ensure that specifying such a requirement is lawful.
- (d) Wherever possible, the specification should be costed to ensure the estimate of the value of the contract is realistic. This sets a benchmark against which all tenders can be evaluated and provides evidence to allow any tender which is significantly below the benchmark to be challenged and, where a satisfactory

response is not received, may justify the tender being rejected as 'abnormally low'.

- (e) The scope of the specification should reflect as accurately as possible the approved budget for the contract or project. Where the scope of the contract or project has changed in comparison to the budget originally approved, for example where additional works have been identified, then advice should be sought from Financial Services before proceeding with the tender process. This will help to avoid problems when tenders are received in excess of the budget available.

#### 9.4 Contract Conditions

- (a) Appropriate contract conditions need to be included to ensure the contract is sufficiently clear and binding upon the contractor. Again, lower value/lower risk contracts will need fewer conditions but the conditions set out below would generally be considered as a minimum.  
Every contract over £50,000 should also include as a minimum the requirements listed in the appendix under contract requirements
- (b) Every contract entered into by the Council shall be in writing and shall:
  - (i) be signed by the appropriate Group Manager and in some cases sealed (Legal can advise on this as required);
  - (ii) specify the work, goods or services to be carried out or supplied by providing an appropriately detailed specification as necessary;
  - (iii) state the price or other consideration to be given in return for performance;
  - (iv) specify the period(s) within which the contract is to be performed and/or other timescale and standards to be met;
  - (v) set out such other conditions and terms as may be required by the Council or have been agreed between the parties;
  - (vi) require that it be a condition of any contract between the Council and any person (not being an officer of the Council) who is required to supervise such a contract that, in relation to that contract, s/he shall comply with these CSOs.
  - (vii) include within every written contract to which these CSOs relate a clause to enable the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor shall have offered, given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do so for so having done or forborne to have done any action in relation to the obtaining or the execution of the contract or any other contract with the Council, (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council, the contractor or any person employed by it or acting on its behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972.
  - (viii) include a certificate or declaration for the tenderer to complete confirming that the tender/quotation is bona fide and not tainted by collusion or bad

- faith (appropriate wording can be obtained from the Corporate Manager Environment, Customer and Community);
- (ix) provide for the payment of liquidated damages by the contractor where appropriate e.g. where it fails to perform or complete the contract within the time specified. The amount of such damages must be calculated from a genuine estimate of the likely loss arising from the failure (but may also include administrative costs and overheads) since penalties are unlawful and will not be enforced by the court. This means that using an arbitrary or standard sum for failures of differing importance and loss may be challengeable and should be avoided. Advice should be sought from the Corporate Manager Environment, Customer and Community as necessary.
  - (x) state that save where required to do so by law, the Contractor shall not assign, novate or transfer the whole or any part of the contract without the prior written consent of the Council; such consent shall not be unreasonably withheld or delayed however, it may be given subject to conditions.”
  - (xi) set out the length of the contract and whether any option to extend the contract is included e.g. a 3-year contract with options to extend for 2 further years if the council elects. N.B Where the Responsible Officer wishes to extend a contract despite no provision to extend being included in the contract then this will be possible only in certain circumstances – see under ‘Extensions’ below.
  - (xii) state whether sub-contracting is permitted in whole or in part and, if it is, then state that a contractor cannot sub-contract the whole or any part of the contract without the prior written permission of the appropriate Responsible Officer. N.B normally satisfactory references and health and safety policies and procedures would need to be received before such consent would be granted. In addition, where a Responsible Officer wishes to use a Nominated Sub-Contractor and/or a Nominated Supplier then advice should be sought from the Corporate Manager Environment, Customer and Community.
  - (xiii) where staff are transferring out of or into the authority or may transfer into the authority at a later date, the contract must include such conditions as may be necessary to deal with the provision of workforce information etc relating to TUPE/the Code of Practice and/or an indemnity to protect the Council from subsequent legal action consequent upon such transfers. Advice on suitable clauses should be sought from the Corporate Manager Environment, Customer and Community.
  - (xiv) that an overseeing project team, consisting of appropriate and/or relevant Councillors and Officers, and possibly co-opted and appropriately qualified member(s) of the public, is established from the outset of a project to monitor and oversee the project and make reports to Council. This would include the appointment of any Employer’s Agent and the terms of payment of the Employer’s Agent and terms for any overrun of the project, together with the tender process and appointment of contractor(s).
  - (xv) that the specification prior to the tender process is clearly identified to ensure cost certainty to the contract.
  - (xvi) that clear and documented delegations of authority are given to employed staff involved in the management of future projects.

- (xvii) that staff who are to be involved in the management of projects are to have received the necessary project management training.
- (xviii) that all staff involved in the delivery of key projects be adequately supported.
- (xix) that the Council ensures there is adequate monitoring and reporting of the management of projects to both Officers and Members.
- (xx) that the Council is represented at all Project Team meetings. No meetings of the Project Team will take place where there is no representative of the Council present.  
That for all future projects, of whatever size, the Council is able to provide fully supportive minutes and actions to support the decision making process.
- (xxi) that the Council ensures that all relevant records, appropriately cross-referenced, are made available to ensure full compliance and demonstrate a clear audit trail using its own records.
- (xxii) there is a clear 'sign off' by Officers to the relevant member body, fully minuted, so ensuring that Councillors are part of the process of delivering within their Delegation of Authority levels.
- (xxiii) that the thresholds of delegation referred to in Financial Regulation FR6 'Management of Contracts' are reviewed as part of the annual review of Financial Regulations.

#### 9.5 Instructions to Tenderers

- (a) Appropriate Instructions need to be included in the tender documents so contractors are clear about what information they need to provide when submitting quotation and tenders and the CSOs they must comply with to submit a valid one. Again, lower value/lower risk contracts may need fewer instructions but those set out below are likely to be a minimum in most cases.
- (b) Instructions to tenderers must state:
  - i. The last date and time for receipt of tenders;
  - ii. That tenders must remain open for acceptance for a specified period (usually 90 days) – this allows time for tenders to be evaluated and further clarification sought if necessary before the tender 'offer' expires. N.B it is also advisable to state that at the expiry of this time the tender offer will not lapse until the tenderer has give written notice to the Council to accept it or it will lapse;
  - iii. That tenders must be signed and submitted on the form of tender provided, without qualification (unless this has been explicitly permitted) and then returned direct to the Responsible Officer indicated on the tender documents before the closing date specified. The instructions should also advise where any written queries or requests should be addressed and the last date for the acceptance of such queries (normally 6 working days before the closing date);
  - iv. That tenders must be returned in the Council envelope provided which shall bear the word 'Tender' or 'Quotation' followed by the subject matter to which the tender/quotation relates and the name of the appropriate Responsible Officer concerned; must be securely sealed and bear no other name or mark

- identifying the tenderer or be delivered with or seen to be accompanied by any material indicating the identity of the tenderer;
- v. The requirement that the tenderer will not disclose any information about to its tender to any other party both prior to submitting it and during the period it is held open for acceptance. That the Council may automatically exclude tenderers from participation in a bid if the tenderer is found to have breached competition law (see General Points above re possible discretion on this point).
  - vi. The criteria for evaluation of the tenders. N.B see below under 'Evaluation of Tenders' for further guidance on this aspect.
  - vii. That the Council does not bind themselves to accept the lowest or any tender and will not be responsible for, or pay or reimbursement the tenderer for any expenses, costs, fees etc incurred by the tenderer or in any way related to the preparation or submission of the tender;
  - viii. Late tenders will not be opened or considered and any late tenders or those disqualified for some other reason should be passed to the Group Manager Environment and Services. Where in exceptional circumstances a Responsible Officers wishes to include in the Instructions to Tenderers a provision allowing late tenders to be accepted, then advice must first be sought from the Corporate Manager Environment, Customer and Community.

#### 9.6 Action during the tender period

- (a) Officers may be privy to confidential information both concerning the external applicants/tenderers (and the in-house service if they are tendering). It is important to maintain absolute discretion and confidentiality concerning the procurement process e.g. by not mentioning who has or has not submitted a tender or expressed interest in doing so, the details of tender or pricing submissions; whether someone had a good/bad reference etc. All sensitive contractor information should be kept secure and access restricted to those officers who really need it.
- (b) A tenderer may raise queries or require further information during the tender process and to ensure there is no confusion or later dispute it is preferable to ask all applicants/tenderers to put such requests in writing. As any contact with applicants/tenderers is potentially important it is good practice to record contacts in sufficient detail to keep an adequate record – these contacts should be signed, timed and dated.
- (c) It is important that queries and information requests are dealt with promptly and replies sent 1st class and/or faxed as appropriate especially where there is a short closing date.
- (d) All applicants/tenderers must be treated equally and all tenderers must receive the same level of information and detail. Where a query is raised or a request is made by one applicant/tenderer it should be answered and copies of the query and reply sent to all other applicants/tenderers. Anonymity should be preserved at all times by removing name/address and any other identifying references.

- (e) Correspondence to applicant/tenderers should be numbered sequentially so an easy reference can be made e.g. Contract Reference Letter no.1/2/3/4 etc as these letters may need to be incorporated into the contract when it is formalised.
- (f) Where it is necessary to arrange for tenderers to visit offices, depots etc it is important to ensure that this does not become an opportunity to 'push' for extra information It is best practice for the agenda for the visit to be fixed beforehand and the visiting applicant/tenderers advised that any queries should be made in writing or faxed on return so that full information can be given to all invitees.
- (g) Similarly, where tenderers are invited to attend a group briefing session steps should be taken to ensure this does not encourage collusive tendering e.g. by requiring attendees to sign a non-collusion declaration or by giving individual or written briefings instead.
- (h) Whenever the Council needs to make alterations to tender documents sent to tenderers, all tenderers shall be informed of the same change and where possible the reasons for the change should be given. It is advisable to state in the tender documents that the council reserves the right to make minor changes of a drafting nature or to correct errors without prior reference to the tenderer.

#### 9.7 Receipts, Storage and Opening of Tenders

- (a) All tenders submitted in accordance with these CSOs should remain unopened in suitable, secure storage arranged by the Responsible Officer (or an officer designated by him/her) until the time appointed for their opening. Any officer receiving a tender shall indicate on the envelope the date and time of its receipt.
- (b) Any tenders received late are to be marked as such and then dealt with as provided for in the relevant tender document – see under 'Instructions for Tenderers' above.
- (c) All quotations/tenders shall be opened at the same time in the presence of the Responsible Officer (or other officer delegated by the Chief Officer) and one other senior member of the relevant service. In accordance with Financial Regulation FR6, at least one Councillor representative from the overseeing project team shall be present at the tender opening. Where the contract value exceeds EC CSOs then a Member of Legal Services or Audit should also be present at the opening.
- (d) The key pricing information from each opened quotation/tender must be recorded on the appropriate form and then signed and timed and dated by the officers undertaking the opening. In the case of civil engineering tenders, a copy of the tender summary originally submitted by each tenderer shall be retained and held on the contracts file for that project too.
- (e) The Responsible Officer should then arrange for the tenders to be checked so that any obvious qualifications, errors or omissions are identified and appropriate action taken in line with the tender instructions.

## 9.8 Errors and Qualified Tenders

- (a) Where examination of a winning tender reveals errors or discrepancies which would affect the pricing or other figure submitted by that tenderer, then the relevant tenderer should be given details of the errors and discrepancies in the tender and afforded an opportunity of confirming or withdrawing the tender without alteration or correction within a specified time.
- (b) If the accepted tenderer withdraws, the next selected tender which satisfies arithmetical and technical checks and which would have been capable of acceptance by the Responsible Officer (i.e. is either the lowest price or the Most Economically Advantageous Tender (MEAT) – see below - if that evaluation criteria is used) shall be accepted and the circumstances reported to the Corporate Manager Environment, Customer and Community for information.
- (c) In civil engineering contracts, the tender figure shall be deemed to be the sum of the rates submitted in the tender unless otherwise indicated.

## 9.9 Evaluation of Tenders

- (a) There are 2 types of evaluation and award processes: -
  - (i) Lowest price – this is appropriate when the procurement is for standard goods – particularly goods where quality and other aspects can be easily specified e.g. textbooks and where, therefore, price is the only determining factor.
  - (ii) The ‘Most Economical Advantageous Tender’ (MEAT) – this should be used in all cases where factors other than price are to be used as criteria and so other factors such as technical ability, responsiveness, quality assurance measures, environmental credentials etc are as or more important.
- (b) Each procurement activity will turn on different factors and so the Responsible Officer should consider, carefully, which criteria are the most important for the procurement in question. The chosen criteria must be set out in the tender document along with details of the information or evidence the tenderer needs to provide so that these aspects of its tender can be evaluated.
- (c) It is common for the non-price criteria to be gathered by asking the tenderer to submit of method statement(s) on how the contract will be performed (ideally with the minimum standard to be achieved set out) but other non-discriminatory ways of gathering the necessary information/evidence is acceptable. Examples of Method Statements can be obtained from the Corporate Manager Environment, Customer and Community.
- (d) The evaluation must clearly indicate, in the tender document, the relative weighting of the criteria so that each tenderer is aware of the relative importance of each criterion and can ensure its tender is focused on the matters deemed most important to the Council.

- (e) Ideally, an evaluation team comprising different skills should assess each of the tenders, particularly where non-price criteria are used. Each team member can then examine each tender against the criteria and form an assessment of how well or badly it meets the stated criteria. Where opinions differ on a particular tender then a discussion amongst the team of the differences can take place until a consensus is reached. A report of the evaluation and reasons for the assessments should be made at the time of the assessment ready for any subsequent challenges. The assessment should conclude with identifying the chosen tender according to the award process chosen (either Lowest Price or MEAT).
- (f) Where the Responsible Officer, following the consideration of the evaluation report, decides that the “Most Economically Advantageous Tender” or “Lowest Price” tender is not satisfactory, then advice should be sought from the Corporate Manager Environment, Customer and Community.
- (g) In considering the tenders, the Responsible Officer may seek advice from Legal Services, Financial Services or other appropriate technical officers e.g. HR, Health and Safety, as necessary.
- (h) Advice should be sought from the Corporate Manager Environment, Customer and Community if there are any queries or further advice is needed.

#### 9.10 Award of Contract

- (a) A tender may be accepted by the Responsible Officer provided the following apply; -
  - i. The tender is the Lowest Price or “Most Economical Advantageous Tender” according to the predetermined criteria and;
  - ii. The tender figure is within the approved sum allocated in the revenue budget or capital Programme;
- (b) Where the most competitive tender is outside the approved estimate provision the officer must seek advice from the Corporate Manager Environment, Customer and Community. If it is outside of the budgeted provision a report must be made to the Cabinet requesting an increase in the estimate provision.
- (c) If the Responsible Officer accepts a tender above the sum allocated against the advice of the Section 151 Officer, the acceptance shall automatically be placed on hold and referred to the next meeting of the Cabinet for decision.
- (d) Subject to (a) to (c) above it is acceptable for the successful tenderer to be informed orally of their appointment with a written confirmation to follow. Details of the other bids should normally be given in the written confirmation of the award although anonymity must be preserved.
- (e) Advice should be sought from the Corporate Manager Environment, Customer and Community if there are any queries or concerns or if a challenge to the process has been or is likely to be made.



## 9.11 Post award

- (a) Where the procurement is covered by EC CSOs then special requirements will apply concerning contract award notices etc and the need to reply promptly to enquiries post tender from unsuccessful tenderers. Please seek further advice from the Corporate Manager Environment, Customer and Community if this is the case.
- (b) Where the award will result in the transfer into the authority or out of the authority of staff then advice should be sought on from HR or the Corporate Manager Environment, Customer and Community on the processes to be followed.
- (c) All the documents forming the contract (plus a copy of the same) should be passed to Legal Services for formalisation of contract together with a list of the key information re price, start and end dates of the contract etc. If a pre contract meeting has been held to clarify any remaining issues and an addendum to the contract has been prepared this should be included in the documents sent for formalization.
- (d) Once the process has been completed then the Responsible Officer must ensure that all the necessary details, in respect of that contract, are entered onto the Contracts Register, held by the Group Manager with responsibility for procurement. This will avoid delays occurring when contract certificates are submitted for payment and also meets audit requirements.
- (e) Legal Services will send a copy of the formalised documents to the Responsible Officer and the master copy will be held in the archive room at West Somerset House. The Council's Document Retention Policy should be applied to the review and destruction of the procurement and contract documents.
- (f) Finance should be informed in writing (email acceptable) of the value of the new contract as compared to the previous contract if any for budgetary purposes and to enable an assessment of whether the procurement has given 'value for money' to be made.

## 9.12 Contract Extensions

- (a) For any contract below EC limits the contract period may be extended in accordance with its contract terms and Responsible Officers may wish to build into the initial contract some extension options. As a matter of good practice the sum of the contract period extensions should not exceed the initial contract period.
- (b) All contracts period subject to EC CSOs can only be extended in line with the original OJEU notice and the EC CSOs prevailing at the time and so the advice of the Corporate Manager Environment, Customer and Community should be sought where a contract period extension is necessary. Unless there is

Management Board approval to the contrary the existing contract may be extended once only and no further extension will be permitted where a contract has previously been extended.

- (c) In any event, the extension must be carried out either at or before the conclusion of the existing contract.
- (d) In addition, it may be possible for the scope of a contract to be extended so that additional goods, services or works are added to those originally included in the contract. This will usually be acceptable provided that:
  - (i) the new contract is of a similar nature to the existing contract and;
  - (ii) the extension does not exceed 50% of the value of the existing contract;
  - (iii) where a contract extension (not provided for by the contract itself) is required and the estimated value is greater than £10,000 but not more than £50,000 then an extension may be granted providing the prior approval of the relevant Lead Member (or the prior approval of the Cabinet should the Lead Member so decide) has been given. Any extension that is estimated to be greater than £50,000 is subject to the prior approval of the Cabinet.

## **10. Special types of Procurement**

### 10.1 Using other Council's/Public Bodies' Contracts

- (a) See under Framework Arrangements below

### 10.2 Partnership arrangements

- (a) A partnership arrangement is nevertheless a contract (but see (d) below) and so the selection of a partner for the provision of services or on a construction project must still be compliant with these CSOs.
- (b) At all stages of the procurement process the desired partnership arrangement and how it is planned to operate should be set out. The design of the procurement process and selection and evaluation of criteria for choosing the partner should support the desired arrangements and selection would normally be on the basis of Most Economically Advantageous Tender (see above under Evaluation)
- (c) Guidance on approval of partnerships is included in Financial Regulations.
- (d) Some partnerships are not contractual and therefore not legally binding e.g. where there is only a 'Memorandum of Understanding' or 'Terms of Reference' underpinning the arrangement. Such partnerships are out side of these CSOs although advice on such arrangements is available as per (c) above.

### 10.3 Shared services

- (a) These are a form of partnership and, as they would normally be contractual, any proposals must first be submitted to Management Board for approval.

Again further advice is available under the Financial Procedure CSOs and through Partnership Working at WSDC on InSite.

#### 10.4 Framework Agreements

- a) Framework agreements are used where the Council wishes to contract for the provision of goods, services or works without conducting a new procurement exercise each time it places an order. It is most appropriate to be used where it is not clear, in advance, the quantity or type of goods, services or works needed.
- b) There are two types of framework arrangements. In each case, every time an order is placed a new contract arises based on the terms set out in the framework.
  - I. Where the Council selects a number of contractors as approved contractors to provide the goods, services or works in question. In this case a mini tendering exercise takes place each time an order is to be placed and each of the contractor's appointed will submit a bid. The evaluation of the bid will be on the same basis as the selection of the bidders. This arrangement has been used for the purchase of leased cars.
  - II. Where one or more contractor is appointed and will have supplied indicative prices/information so that it is possible to check which contractor is most competitive when an order needs to be placed. This type of arrangement has been used for the purchase of IT equipment and public works maintenance.
- c) In addition, the Council is able to use not only those Frameworks it has entered itself but also those procured by central Government agencies, other authorities or public bodies or purchasing consortia provided it is a named beneficiary (by name, class or implication) e.g. the Consortium. Where the Council has entered into a framework agreement then that Framework Agreement should be used unless it does not offer Best Value.
- d) As the use of Frameworks can be quite complex the Corporate Manager Environment, Customer and Community must approve the use of any framework agreements.

#### 10.5 Appointment of consultants

The council defines a consultant for the purposes of Contract Standing Orders as any external appointment of a person corporate or otherwise on a one-off basis for a period of time not exceeding one year. Appointments in excess of one-year will fall within the scope of a contract for services, covered elsewhere within Contract Standing Orders.

The following applies to appointments of any consultant or contractor, forecast to be in excess of £500 as calculated on a cumulative basis (i.e. a second or third appointment of an individual that takes the total paid to more than £500 will fall within these rules).

- (a) Prior to the decision that a consultant is required, the relevant Group Manager or Service Lead Officer shall refer to the council's skills database to establish that the expertise is not available internally.
- (b) Before the engagement of any architect, engineer, surveyor or other consultant for the purpose of any contract in respect of the supply of goods or materials, the carrying out of works or the provision of any other services, the appropriate Group Manager shall follow the CSOs under the appropriate transactional limits outlined above.

In addition, detailed briefs outlining expected outcomes and SMART targets must be produced to ensure clarity of scope and expectations and the subsequent delivery of the outcomes.

For each engagement, a 'Request for Appointment of Consultants' form will be completed and approved by Corporate Management Team prior to appointment. This document covers: -

- Description of work to be undertaken
- Period of engagement
- Number of days engagement
- Description of Roles and Responsibilities
- Key Outcomes
- Key Deadlines and Milestones to be achieved
- Anticipated Cost (including disbursements)
- Source of Funding

Copies will be retained and act as a 'consultants register'. All cases will also be entered into the council's contracts register.

- (c) Each such engagement:
  - shall be evidenced in writing, including details of the basis and frequency of payments identifying the Responsible Officer who will manage and monitor each consultancy project;
  - shall ensure there is close ongoing collaboration between the consultants and in-house staff:
    - to minimise the time consultants need to learn about the Council and its business;
    - to ensure that work is done by in-house staff where that is cheaper or more effective
    - to see that consultants are working appropriately;
    - to exploit opportunities for skills transfer;
    - to identify and resolve problems quickly.
  - shall be subject to the condition that such architect, engineer, surveyor or other consultant shall at all times be fully covered by sufficient and suitable professional indemnity insurance. Advice on insurance matters should be obtained from Financial Services.
  - shall require that s/he shall conform to the requirements of these CSOs, the Council's Financial Procedure CSOs and any direction from the Council;

- shall require that s/he shall on request, at any time during the carrying out of the contract, produce to the Responsible Officer or her/his representative, all the records (including electronic records) maintained by her/him in relation to the contract and upon completion or earlier termination of the contract, s/he shall pass, promptly, all such records to the appropriate Head of Service. In the case of electronic records these shall be in a machine-readable format appropriate to the Council's IT system.
- (d) The Responsible Officer should ensure that all the benefit of the intellectual property rights in the work that the consultant has undertaken, remain with the Council and that access to and all copies of such research or work is freely and easily accessible by the Council.
  - (e) The Responsible Officer must consider which will be the most appropriate evaluation criteria and whether the appointment will be on the basis of Lowest Price or the Most Economically Advantageous Tender – see above re Evaluation Criteria. In most cases, the latter will be more appropriate as it is expertise and skill that will be the main determinants of appointment not just price.
  - (f) Where MEAT is chosen the Responsible Officer must clearly identify in advance the key requirements for the appointment so prospective consultants can be asked to demonstrate that they meet these during the evaluation.
  - (g) A record of the evaluation should be kept for audit purposes
  - (h) Where the consultancy has incurred considerable expenditure undertake a post contract review to assess the value for money achieved. Undertake a critical evaluation to ensure that any lessons are learnt, disseminated and are incorporated into the Council's management systems as appropriate.

## **11. Disposal of Assets**

- (a) The sale of any land or buildings which fall outside the powers given to employees in the scheme of delegations shall require the prior approval of the Cabinet.
- (b)
  - (i) The disposal of assets individually valued at less than £150 may be undertaken at the discretion of the Group Manager. The Group Manager shall maintain appropriate records and shall immediately inform the Section 151 Officer of such disposals.
  - (ii) The disposal of assets individually valued in excess of £150 but less than £1,000 may be undertaken by the Group Manager with the written approval of the Section 151 Officer. The Group Manager shall maintain appropriate records of such disposals.
  - (iii) Proposals for the disposal of other assets individually valued in excess of £1,000 shall at first be referred to the Section 151 Officer and be subject to a tender process before seeking the consent of the Lead Member with relevant portfolio. The Group Manager shall maintain appropriate records of such disposals.

- (c) In addition to (b) above, the disposal of vehicles, plant and equipment valued in excess of £1000 be delegated to the Corporate Manager Environment, Customer and Community via auction or other such appropriate mechanism subject to the prior written approval of the Section 151 Officer.
- (d) In addition to (b) above, any disposal of IT equipment (including laptops, printers, cameras, mobile devices and any other peripheral items) must be in accordance with the Council's IT Policies and processed through the IS Unit.

## **12. Declaration of interests**

If it comes to the knowledge of a member or an employee of the Council that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the council, he or she shall immediately give written notice to the Chief Executive Officer. The Chief Executive Officer shall report such declarations to the appropriate committee.

Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a pecuniary interest in as much as it is not a contract to which the member or employee is directly a party.

A shareholding in a body not exceeding a total nominal value of £1000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this standing order.

The Chief Executive Officer shall maintain a record of all declarations of interests notified by members and officers.

The Chief Executive Officer shall ensure that the attention of all members is drawn to the National Code of Local Government Conduct.

## **13. Glossary of Terms**

- Contract requirements
- Each contract over £50,000 must also state clearly as a minimum:
  - That the contractor may not assign or sub-contract without prior written consent
  - any insurance requirements
  - health and safety requirements
  - Ombudsman requirements
  - Data protection requirements, if relevant
  - That charter standards are to be met, if relevant
  - Race relations requirements
  - Disability Discrimination Act requirements
  - Freedom of information Act requirements
- Where agents are used to let contracts that agents must comply with the council's CSOs a right of access to relevant documentation and records of the contractor for monitoring and audit purposes, if relevant

That the contractor may not assign or sub-contract without prior written consent

“Procurement” or “Contract” means the process for choosing the contractor(s) to provide the goods, services or works in question and the legal document setting out the legally binding agreement depending upon the context in which the term is used.

“Tendering” or “Quotation” means the contractor’s offer (usually financial) to undertake the procurement/contract

“Responsible Officer” A person who has been granted an appropriate level of delegated authority to act on the Council’s behalf.

“Best Value” The optimum combination of whole life cost and benefits to meet the authority’s requirements. Such a term equates to the M.E.A.T which is used in EC CSOs as a contract award criterion

“M.E.A.T” Most Economically Advantageous Tender – means a tender selection based on factors other than price. These might include:

- service
- quality of goods
- running costs
- technical merit
- previous experience
- delivery date
- cost effectiveness
- quality
- relevant environmental considerations
- aesthetic and functional characteristics (including security and control features)
- safety
- after sales services
- technical assistance

Criteria must not include:

- Non commercial considerations
- Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.

“Council” means West Somerset District Council

“Contractor” means any person or body providing, or seeking to provide, goods services or works to the Council.

“EU Rules ” means the European Union rules on Public Procurement including the Directives .

“Framework agreement” An agreement that allows the Council to call-off from a supplier, a range of predefined goods or services. It is the call-off or drawing down of goods or services that constitutes a contract.

“SMART” Agreed targets when deciding the form of a contract – this consists of Specific, Measurable, Achievable, Realistic, and Timebound.



**Formal Request for Appointment of Consultants (RAC)**

**To: Corporate Management Team**

Internal staff skills database checked	
Description of work to be undertaken <ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>	
Period of engagement	
Number of days engagement	
Description of Roles and Responsibilities <ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>	
Key Outcomes to be achieved <ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>	
Key Deadlines and Milestones to be achieved <ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>	
Anticipated Cost (including disbursements)	
Source of Funding	
Submitted by:	Date:
Approved by:	Date:





# Corporate Procurement Strategy October 2009

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## Supporting Documents available:

Contract Regulations:

<http://www.westsomersetonline.gov.uk/UPLOADS/DOCS/Const%20Part4July09.pdf>

Constitution:

<http://www.westsomersetonline.gov.uk/UPLOADS/DOCS/Const%20Part2July%2009.pdf>

Small Business Friendly Concordat:

<http://www.communities.gov.uk/publications/localgovernment/smallbusinessfriendly>

Climate Change Strategy:

<http://www.westsomersetonline.gov.uk/UPLOADS/DOCS/08%2007%2002%20%20West%20Somerset%20Climate%20Change%20Strategy%20Final2.pdf>





## Introduction

1. "Procurement" is the process of acquiring goods, works and services and relates to all expenditure, with the exception of directly employed staff costs and 'non contract' expenditure e.g. grants, rates, debt and interest payments. Procurement covers everything from basic purchasing, commissioning, through to strategic reviews of service provision (the "make or buy" decision) and encompasses every aspect of the procurement process from identifying the need, the buying process, contract management, through to the end of service delivery.
2. Quality procurement contributes towards the achievement of the council's strategic objectives. It is important for the council to develop a clear strategy to address how externally provided resources are selected, acquired and managed and also to consider delivery options when undertaking a service review.
3. The council's Corporate Plan specifies our priority actions and a number of key initiatives. The future for local authorities holds a greater emphasis on partnership working, including working closely with other councils, the creation of strategic partnerships and the new comprehensive area assessments.

## Aims

4. This strategy aims to promote effective procurement across the whole council and to set out a flexible framework within which further procurement reform can evolve. We aim to ensure that wherever possible we engage in collaborative and/or joint procurement.
5. The authority's annual procurement expenditure for the year ended 31 March 2009 exceeded £5 million.
6. The council needs to have a clear strategy to ensure that:
  - o Value for Money is given full consideration in all procurement and commissioning activities;
  - o Wherever possible we procure jointly and will work towards enabling future collaborative procurement opportunities by planning co-terminus contracts with other Somerset or appropriate partner authorities. The presumption is that we will join with contracts arranged by other authorities where this offers the most efficient procurement option;
  - o There is a corporate focus to develop a consistent approach and signpost best practice for procurement;
  - o Procurement planning reflects the Council's corporate priorities, aims and objectives;
  - o There is commitment to effective procurement from councillors and officers at all levels throughout the organisation;
  - o Up to date, timely and effective procurement procedures and processes are applied;
  - o A culture of effective contract management is developed; and
  - o Local economy benefits from procurement are considered, assessed and delivered wherever possible within the applicable legal constraints

7. In the context of procurement, obtaining best value for money means choosing the solution that offers the optimum combination of whole life costs and benefits to meet the customer requirement.
8. The Council aims to improve its procurement in line with the key themes of the National Procurement Strategy (NPS) <http://www.communities.gov.uk/documents/localgovernment/pdf/135268.pdf>, namely: providing leadership and building capacity; partnering and collaboration; doing business electronically; stimulating markets and achieving community benefits and vision.

### Objectives for Procurement

9. The council's objectives for procurement are:
  - To obtain value for money and generate efficiency from the council's procurement spend;
  - To procure in collaboration wherever possible;
  - To develop a positive framework for procurement which promotes the council's vision, core values and strategic objectives;
  - To develop and maintain effective relationships with the South West Regional Efficiency and Improvement Partnership and other public sector bodies.
  - To achieve the National Procurement Strategy milestones;
  - To develop and implement appropriate eProcurement systems;
  - To support the local economy wherever possible.

### Strategy Framework

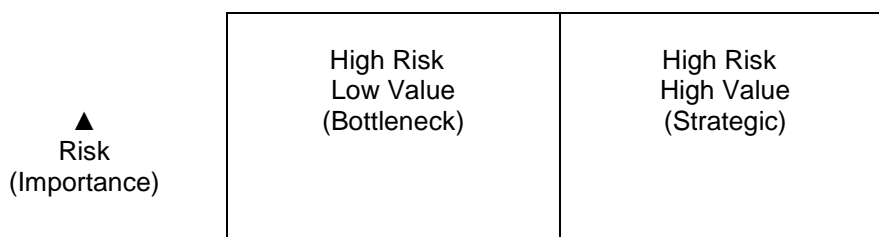
10. The Corporate Plan sets out:
  - The Council's overall vision and priorities for the district and how we will deliver them
  - What we stand for by way of principles and values
  - On what we wish to be judged

It will inform our work programme and resource allocation, providing clarity and assurance on what we aim to achieve.
11. The council's Business Principle is: "to have a positive impact on the quality of life of those who live, work or visit the district."
12. The council's vision is "To be a high performing Council that is working in partnership with both private and public sector organisations to establish a good quality of life for all residents in West Somerset."
13. The Council's two new corporate priorities for 2013 - 2016 are:
  - **Local Democracy:** Securing local democracy and accountability in West Somerset, based in West Somerset, elected by the people of West Somerset and responsible to the people of West Somerset
  - **New Nuclear Development at Hinkley Point:** Maximising opportunities for West Somerset communities and businesses to benefit from the development whilst protecting local communities and the environment.

14. We will be supportive of one another, work as a team of teams and be flexible, we will show an ability to cope with change together with a commitment to ongoing learning and development. Of others we will value people as individuals and the mix of personal, people, professional and technical skills they bring. The council's core values for the period 2009 to 2012 are:
- **Integrity** – be honest, do what is right and stick to it;
  - **Fairness** – treat everyone equally, respecting his or her individual needs and abilities;
  - **Respect** – always show respect for everyone;
  - **Trust** – show trust in our staff and Members.
15. This strategy contributes directly to many of our core values, corporate priorities, aims and objectives and will help to ensure that we are a well-managed council. There is also an indirect contribution because improved procurement processes can help to generate efficiency savings which mean more money is available to support other corporate priorities.
16. The council recognises that procurement has a major role to play in the delivery of its priorities.
17. Spend Profile Each year West Somerset District Council spends approximately £4 million revenue and upwards of £2m Capital on the procurement of supplies, works and services.
18. The roles and responsibilities for procurement within the authority are set out at Appendix A as is the Procurement Work Plan.

### Key Actions

19. The key actions and recommendations will be consolidated into the Procurement Work Plan. The Virtual Procurement Team will keep the work plan under review, report bi-annually on its progress to the Corporate Management Team (Procurement Board – made up of CMT plus Procurement Champion) and identify further actions that may become necessary.
20. Critical to the process of good, cost-effective procurement, is the early identification of the value and risks associated with the procurement process. To this end, all procurement decisions shall be evaluated against the procurement matrix set out below (Fig.1) where value equates to the value for money opportunity and risk represents the importance to our Corporate Objectives or the gravity of failure.



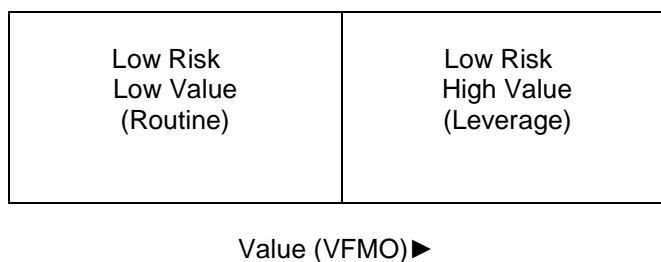


Fig.1 The Procurement Matrix/Portfolio Map

- 20.1 *Low risk, low value* (Routine) would include goods such as stationery, where there are plenty of potential providers and competition is high. Such goods and services will usually be purchased from an approved list of pre-qualified providers using, for the most part, purchase cards on a call-off basis.
- 20.2 *High risk, low value* (Bottleneck) would include agency contracts where the risk to vulnerable people of not providing the service is potentially serious. Because of the often specialised nature of such goods and services, partnership arrangements based on negotiation among the small numbers of potential providers is the optimal means of procurement.
- 20.3 *Low risk, high value* (Leverage) would include purchase of vehicles, where there are plenty of providers but the value of each individual item is high. In most cases, such procurement will be through means of seeking expressions of interest, competitive tender and other open means.
- 20.4 *High value, high risk* (Strategic) would include construction of buildings, long-term service contracts and the like. Again tendering will be used, with or without pre-qualification, and a high level of project planning and project management, together with external expertise bought in, is likely to be necessary, in a service delivery partnership approach with providers. Councillors would be expected to be involved in strategic procurements such as these, whether on project, evaluation or scrutiny teams. Whilst councillors would be expected to contribute to the strategy for dealing with procurement in the other areas of the Procurement Matrix/Portfolio Map, they would only get directly involved in the strategic area.
- 20.5 Identification of the value and risk according to the Matrix assists in the assessment of the type of procurement process best suited to each circumstance. It is an essential first step in the procurement process. The contents of the contracts register will be mapped against this strategic portfolio map/matrix and decisions on future procurement and potential efficiency savings will be prioritised accordingly. This methodology will enable the development of a category management approach in the future, whereby the council applies various procurement strategies to each category of its spend according to risk and value for money opportunity.

### Key Policies

21. The following policies have been put in place to enable the council's objectives and corporate priorities to be realised in a procurement context. Officers must take into account each of the key policies when deciding and weighting evaluation criteria.

### KP1: Value for Money



- KP1.a. The council is fully committed to improving the economy, efficiency and effectiveness of all its procurement activity. All procurement of goods, works and services is to be based on value for money, having due regard to propriety, regularity and the council's legal obligations.
- KP1.b. Value for money as contract award criteria (for the purposes of the Procurement Strategy and Contract Regulations) means choosing the solution that offers "the optimum combination of whole life costs and benefits to meet the requirement". Therefore the evaluation should be on the basis of "the most economically advantageous tender (MEAT)" or quote in terms of quality and price, rather than the lowest price.

Some examples of whole life costs are:

- Initial price
- Delivery and installation
- Operative resources
- In-house management resources
- Consumables
- Spare parts
- Taxes
- Maintenance
- Life expectancy
- Energy consumption
- Depreciation / residual value
- Disposal / exits costs

## **KP2: Customer Focus**

- KP2.a "Customers" includes internal and external customers and the council will take full account of the needs of customers, both in the community (including the economic community) and within the authority, when procuring goods, works and services.
- KP2.b Tenderers will be encouraged to submit optional, priced proposals for the delivery of community benefits where they are relevant to the contract and to the Corporate Plan.

## **KP3: Competition**

- KP3.a Competitive procurement promotes economy, efficiency and effectiveness in council expenditure and also contributes to the competitiveness of suppliers, contractors and service providers.
- KP3.b All goods, works and services must therefore be acquired by competition except in the circumstances set out in Contract Regulations.

## **KP4: Transparency**

- KP4.a The council has introduced a register of current contracts which will eventually become a procurement opportunities plan setting out details of contracts that are expected to be awarded during the current financial year. The register and procurement opportunities plan will then be regularly updated and published on the council's website. The council will advertise for tenders on [www.supply2.gov.uk](http://www.supply2.gov.uk), and where necessary in the Official Journal of the European Union, and will advertise on other contract opportunity portals as appropriate.

### **KP5: Continuous Improvement**

- KP5.a This strategy forms part of the arrangements the council has made under Part 1 of the Local Government Act 1999 (as amended) to secure continuous improvements in service delivery in terms of economy, efficiency and effectiveness.
- KP5.b By including appropriate standards, targets and monitoring methods in contracts, the procurement process will be used to encourage contractors, service providers and suppliers to reduce costs, promote sustainability equality and diversity, and continuously improve performance.

### **KP6: Ethics and Fraud Prevention**

- KP6.a The council will insist on ethical standards from our suppliers and in turn members and officers of the council must preserve the highest standards of honesty, integrity, impartiality and objectivity.
- KP6.b Procuring officers shall comply with the council's constitution, contract and financial regulations and any relevant code of conduct or good practice.
- KP6.c The Council will insist that all Procuring officers, members and those persons involved in procurement or contracts:-
- shall immediately notify a *Director* of any personal interest or relationship to a supplier,
  - must not invite or accept any gift or reward in respect of the award or performance of any contract,
  - shall immediately notify a Director if a supplier, its employees or anyone acting on behalf of a supplier offers, gives or agrees to give to anyone any inducement or reward; commits an offence under the Prevention of Corruption Acts 1889 to 1916 or section 117(2) of the local Government Act 1972; or commits any fraud in respect of any council contract the contract may be terminated.

### **KP7: Standards**

- KP7.a The council shall establish standards of competency in procurement and contract management and shall take steps to ensure that officers and councillors receive the training and development they need to operate to the relevant standard.

### **KP8: Collaboration**

- KP8.a The council believes that efficiency savings can be achieved through joint working, partnerships and consortia and will always seek to exploit the opportunities available for collaboration with other local authorities and public sector bodies (including joint procurement and establishing shared services) and private organisations.
- KP8.b The Council is able to access a number of contracts arranged by various purchasing organisations and will continue to work with the South West Regional Improvement and Efficiency Partnership (RIEP) to explore ways of achieving value for money by consolidating the procurement needs of a number of authorities, reducing product diversity and administrative overheads. Officers must always firstly consider the benefits of procuring collaboratively and as a minimum will ensure that any contract awarded is made available and used by other divisions within the council and our neighboring local authorities/partners.

## **KP9: Framework Agreements and Corporate Contracts**

- KP9.a Where the council has put in place framework agreements or corporate contracts, goods, works and services must be ordered under those arrangements. Exceptions to this rule must be justified.
- KP9.b All contracts let must be available as a corporate contract and the lead procuring officer should liaise with other Group Managers to make sure the specification is suitable for their requirements.
- KP9.c Procurement of any IT hardware or software must be authorised by the Corporate Manager Environment, Customer and Community and the implementation of software systems must be project managed by or jointly with an appropriate representative from the IT Service

## **KP10: eProcurement**

- KP10.a E-Procurement describes the use of electronic systems to acquire goods, works and services and payments to third parties (including electronic marketplace, tendering, auctions and procurement cards).
- KP10.b The council is committed to a modular approach to the introduction of electronic commerce, including optimising use of electronic payments, and appropriate use of procurement cards and electronic tendering and will identify and introduce appropriate e-procurement solutions where it is cost efficient to do so.

## **KP11: Mixed Economy**

- KP11.a The council is committed to the promotion of a mixed portfolio of service provision because this is most likely to deliver value for money for the citizens of West Somerset.
- KP11.b The basis for commissioning service providers in the public, private, voluntary and community sectors is value for money to the customer.

## **KP12: Supplier Diversity**

- KP12.a The council is committed to promoting a strong local economy and, where practicable and consistent with European legislation and value for money, the council will take opportunities to support local small and medium-sized enterprises through its procurement decisions. Small businesses make an important contribution to the delivery of public services and the Council recognises the role these businesses play in the national and local economy.
- KP12.b By providing information and advice on the council's website the council will assist businesses (and SMEs in particular), voluntary and community organisations, social enterprises and ethnic minority businesses to build their capacity to win and retain public contracts.
- KP12.c The council recognises that its procurement activity can directly support the development of the local economy and will produce guidance for procuring officers to raise awareness of the potential barriers faced by SMEs when doing business

with the council. The strategy will help to deliver the actions of the West Somerset Economic Strategy.

- KP12.d The council is committed to encouraging effective trade between it and small businesses and will demonstrate this commitment by entering into the National Procurement Concordat for Small and Medium-sized Enterprises.
- KP12.e The council will ensure that its approach to individual contracts, including large contracts and framework agreements, is supported by a sound business case and options appraisal.
- KP12.f Where the council decides that the best value option is to aggregate supply or let a longer term contract or framework agreement we will invite bidders to demonstrate their track record in achieving value for money through effective use of their supply chain.
- KP12.g The council will encourage use of SME specialist suppliers in delivering elements in larger contracts and framework agreements where appropriate.
- KP12.h The council monitors and will seek to increase the proportion of spending with local SMEs either directly or indirectly within the applicable legal constraints and where consistent with value for money.

### **KP13: Option Appraisal and the Business Case**

- KP13.a When undertaking a scrutiny review of a service, the council will wish to form a rounded, evidence-based view of the performance of that service in terms of comparison, consultation, competitiveness and challenge (the 4Cs).
- KP13.b The council recognises that the competitiveness of its services is a key dimension to be addressed in reviews and will, so far as is practicable, consider competitiveness in terms of cost, quality, customer satisfaction, added value and efficiency savings.
- KP13.c The principal options (service delivery models) to be considered are:-
- In-house
  - Public sector consortium (including a joint committee or joint board where appropriate)
  - Non-profit distributing organisation (“trust”)
  - Tactical contracts (multiple)
  - Local authority company
  - Joint venture company
  - Partnering contract
  - PFI/PPP contract (design, build, finance and operate)
  - Framework agreement
  - Concession/franchise
  - Closure/disposal
  - Community and Voluntary Organisations
  - Do nothing
  - Mixture of the above
- KP13.d The council will examine the scope for collaborative procurement with other local authorities and other government organisations.

KP13.e In major construction projects the options to be considered will include, but are not limited to:-

- Design; build (two contracts e.g. architect and builder)
- Design and build (one contract)
- Design, build and maintain
- Design, build, finance and operate (PFI/PPP)

KP13.f The council is committed to achieving excellence in construction and will develop a strategic approach to partnering in construction as required by the National Procurement Strategy. The primary consideration in the choice of procurement route is the need to obtain overall value for money in the whole life of the service or facility. This includes maintenance and therefore design, construction and maintenance should not be considered in isolation from one another.

KP13.g Partnering (single project or multi-project (“strategic”) partnering) will always be considered for high risk/high value schemes (also see KP14 below).

KP13.h The option recommended in the business case will include an evaluation of the impact on the council’s ability to meet its core values and will be the one which scores highest against the following criteria:

- **Strategic fit:** how well does the proposed way of meeting the requirement support the authority’s objectives and corporate priorities? Does the scope need to change? Does it meet the requirements of funding partners? Have issues such as equalities, economic development, sustainability and carbon footprint been addressed? Have the local economic benefits been considered?
- **Options:** have a wide range been explored, including innovation and/or collaboration with others? How do they compare in terms of benefits, costs, risk and commercial viability? How does the project impact on other plans for collaborative working?
- **Value for money:** (benefits, costs, risks and efficiency savings): can you demonstrate that the project delivers value for money in terms of whole life costs and is fit for purpose? Can this be obtained from proposed sources of supply such as current suppliers? Does the project need to be made attractive to a wider market?
- **Affordability:** is the budget available to deliver what is required? If not, can the scope be reduced or delivery extended over a longer period of time; or funding sought from other sources?
- **Achievability:** can this project be achieved with the authority’s current capability and capacity (such as other projects with a high priority that must be delivered at the same time)?

The senior manager responsible for the project will ensure that these criteria are addressed in the Business Case and are weighted appropriately.

#### **KP14: Partnering**

KP14.a Partnering is the council’s preferred procurement approach for high value/high risk projects.

KP14.b Partnering involves the creation of a mutually advantageous, flexible, long-term relationship between the council and its partner based on the sharing of risks and rewards and continuous improvement. The partner may be in the public, private, community or voluntary sector.

### **KP15: Project Management**

- KP15.a All major procurement projects will be managed according to a structured best recognised project management method and best practice in risk management. For the purpose of this strategy a “major project” is a project where the total contract value exceeds the EU threshold.
- KP15.b All other projects must be managed using an appropriate project management method with reviews carried out by the relevant Group Manager.

### **KP16: Workforce Issues and Staff Involvement**

- KP16.a The council is committed to being a good employer and to recruiting and retaining a quality, well-motivated workforce fully enabled to deliver effective services to the customer.
- KP16.b Staff will be consulted at all appropriate stages of a procurement project and especially in situations likely to involve a transfer of staff or the formulation of a partnership.
- KP16.c In situations which result in a transfer of staff The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) will apply and the council will use its best endeavours to secure a broadly comparable pension for transferring staff or alternatively, if possible, the admission of the service provider or contractor to the local government pension scheme. In transfer situations the council will implement Government guidance on the treatment of new starters, and will include the relevant code of practice in contracts.

### **KP17: Sustainable Procurement**

Where new contracts are tendered or re-negotiated, the Council will require suppliers to provide accurate data by an agreed date, to enable the Council to fulfill its National Indicator reporting obligations related to carbon dioxide and air emissions. The contractors will also provide verification of the data's accuracy through the contract review process. A percentage reduction in carbon dioxide emissions over lifetime of contract will be agreed between the Council and the contractor.

- KP17.a The council is committed to the continual improvement of its environmental performance and will encourage the assessment of the social, economic and environmental impact of the goods, works and services it purchases by considering these factors in the procurement decision making process.
- KP17.b Where it fits with our requirements for value for money, the council will favour the award of contracts to suppliers who can demonstrate an ability to supply goods, works and services that have a clear environmental advantage. Wherever possible the product, work or service that offers the lowest negative impact on carbon footprint will be selected provided the procurement meets the value for money criteria and any budget restrictions.
- KP17.c The council will encourage its suppliers and contractors to minimise negative environmental and social impacts by ensuring that environmental issues form part of the decision-making process in procurement, for example considering the impact of a purchase on air quality and carbon footprint.

KP17.d The council will ask partners and suppliers of goods, works and services to provide comparative whole life costs for environmentally sustainable alternatives and then decide whether any additional costs are justified for the community benefits which may be gained. Consideration of whole life costs (not just the capital costs) means that all phases of a product's lifecycle should be considered when assessing the sustainability impact. Examples of whole life costs are given in KP1.

KP17.e Environmentally responsible practices and materials will be adopted for building and civil engineering design and measures to maximise the use of sustainable materials, energy and water efficiency, and healthy buildings together with measures to minimise construction waste shall be specified in all contracts. The council will comply with recognised standards such as "BREEAM" (<http://www.breeam.org/>) or the equivalent.

KP17.f The council will require its suppliers, contractors and partners to comply with relevant environmental statutory requirements, including all relevant environmental and sustainable procurement legislation.

KP17.g The Council will educate staff responsible for procurement decisions about the impact of those decisions on the environment and shall instil an ethos of "reduce, reuse, recycle".

#### **KP18: Diversity and Equalities**

KP18.a The council is committed to promoting equality of opportunity and to combating discrimination both in the way we deliver services to the public and through our actions as an employer.

KP18.b The council aims to achieve a consistent approach to equality throughout the community and in the delivery of all services.

KP18.c The council expects all organisations and people working on its behalf (including partners and contractors) to practice equal opportunities and they must be clear about the council's position on equality; be aware of the requirements placed upon them to adhere to the council's Equality Policy; and be able to demonstrate that all reasonably practicable steps are taken to allow equal access and equal treatment in employment and service delivery.

KP18.d The council will ensure that its procurement policies and practices support its Equality Policy by:

- Insisting that our appointed contractors, sub-contractors and partners share and help to deliver our equal opportunities goals,
- Making sure our tendering opportunities are advertised appropriately. The council will take positive steps to ensure that small businesses, social enterprises, voluntary sector organisations, ethnic minority businesses and equality groups and businesses are provided with information and advice to assist them to ensure that they have an opportunity to compete,
- Ensuring that all contractors carrying out work on behalf of the Council, or sub-contracting on behalf of the Council will be required to comply with an equality checklist and produce an equal opportunity statement or policy relating to their employment practices and service delivery,

- Ensuring that access to services is taken into account in the procurement process and , where necessary, selected contractors will be required to develop more accessible products and services,
- Ensuring our selection and tendering processes positively address and include appropriate equality considerations,
- Ensuring that all organisations with which the Council has a Service Level Agreement actively promote their services to all parts of the community and are monitored accordingly,
- Rigorously monitoring our contracts for compliance,
- Including appropriate terms and conditions to ensure good practice as regards disability, age, race, gender, sexual orientation, faith / religion, ethnicity or nationality and, in particular, to ensure that the council fulfils its statutory duties, and,
- Training staff in equalities issues for procurement.



# Monitoring of Corporate Procurement

## Appendix B

The implementation of the strategy will be reviewed regularly by Audit and CMT (through the Procurement Board).

The Cross-council Procurement Team will report to the Corporate Management Team (Procurement Board – made up of CMT plus Procurement Champion) bi-annually regarding significant developments in procurement and progress of the Procurement Work Plan

	<b>Performance Indicator</b>	<b>% at 31st October 2009</b>	<b>% at 31st October 2010</b>
<b>LE29</b>	Percentage of National Procurement Strategy milestones completed		

New performance indicators to be monitored from October 2009

<b>Reference</b>	<b>Description</b>	<b>Monitored by</b>
A	% of service area procurement spend on contract	
B	% of non- contracted service area spend that is timetabled for a procurement review within 3 years	
C	% of corporate spend aggregated through collaboration with other public sector organisations	
D	% of corporate spend placed with small and medium sized enterprises (SMEs)	
E	% of corporate spend including grants placed with 3 <sup>rd</sup> sector ( i.e. suppliers in the voluntary, community & social enterprise sectors)	
F	% of corporate spend placed with ethnic minority businesses	
G	% of corporate spend placed within the district council postcodes area	
	Others Or alternatives to above	



## **OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Recruitment and Appointment**

#### **(a) Declarations**

- (i)** The application form will require any candidate for appointment as an officer to state whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or the partner of such persons.
- (ii)** No candidate so related to a Councillor or an Officer will be appointed without the authority of the Head of Paid Service.

#### **(b) Seeking support for appointment**

- (i)** The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii)** No Councillor will seek support for any person for any appointment with the Council

### **2. Recruitment of the Head of Paid Service and Members of CMT**

Where the Council proposes to appoint a Member of CMT and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will –

- (a)** Draw up a statement specifying:
  - (i)** The duties of the Officer concerned; and
  - (ii)** Any qualifications or qualities to be sought in the person to be appointed.
- (b)** Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply.

### **3. Appointment**

#### **(a) Head of Paid Service**

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

**(b) Appointment of Members of CMT**

Where a Committee or sub-Committee is discharging on behalf of the Authority the appointment of a Member of CMT, at least one member of the Cabinet must be a member of that Committee or sub-Committee.

**(c) Other Appointments**

Appointments and amendments to the establishment relating to Officers below Members of CMT (other than political assistants) must be made by the Head of Paid Service or his/her nominee on behalf of the Authority.

**(d)** Appointment of assistants to political groups shall be made in accordance with the wishes of that political group.

**4. Disciplinary Action**

**(a) Head of Paid Service, Monitoring Officer and Section 151 Officer**

The Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months. No other disciplinary action may be taken in respect of any of these officers except in accordance with a recommendation by a designated independent person.

**(b) CMT**

Where a Committee or sub-Committee is discharging, on behalf of the Authority, disciplinary action against a Member of CMT, at least one member of the Cabinet must be a member of that Committee or sub-Committee. The Committee or sub-Committee will determine the disciplinary action to be taken in accordance with the JNC Chief Officers Conditions of Service.

**(c) Other members of staff**

Disciplinary action against all other members of staff is the responsibility of the Head of Paid Service or his/her nominee. Councillors will not be involved in the disciplinary action against any officer below CMT level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures.

## **5. Dismissal**

### **(a) Head of Paid Service**

Where a Committee or sub-Committee dealing with the dismissal of the Head of Paid Service on behalf of the Authority, the Council must approve that dismissal.

### **(b) CMT**

Where a Committee or sub-Committee dealing with the dismissal of a member of CMT, on behalf of the Authority, at least one member of the Cabinet must be a member of that Committee or sub-Committee.

### **(c) Other members of staff**

Dismissal of other members of staff is the responsibility of the Head of Paid Service or his/her nominee. Councillors will not be involved in the disciplinary action against any officer below CMT level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures.



## **PUBLIC PARTICIPATION SCHEME**

### **Public Speaking Rights At Formal Meetings**

The Council has approved arrangements whereby members of the public may speak at meetings and otherwise contribute to the business of the Council.

West Somerset Council is happy to provide the opportunity for members of the public to make their views known directly to Councillors at formal meetings.

Due to number restrictions in the Williton Council Chamber public attendance may have to be limited on a first come first served basis.

#### **Speaking at Meetings**

1. Some people may feel strongly about a subject and accordingly may wish to make their views known at the meeting to those who are making decisions or considering local issues.
2. Speakers and written representation can only be made regarding items listed on the agenda.
3. Anybody wishing to speak at a meeting must inform the Committee Services team by 4.00pm on the previous day before the meeting, unless the Chairman considers that this should be varied for practical purposes subject to any such variance being advertised giving reasonable public notice.
4. The Chairman will invite people who have requested to speak to do so after the Officer has presented the relevant report but before Councillors debate the issue. Where an application is involved the applicant will be the last member of the public invited to speak on the topic.
5. A three minute time limit applies at all meetings to each speaker subject to the discretion of the Chairman.
6. Speakers will be invited to direct their comments and statements to the Chairman of the meeting.
7. Members of the public must not communicate with Councillors during a debate.
8. If a response is requested it will be given either orally at the meeting or a written reply made within five working days of the meeting.
9. A time limit may be imposed by the Chairman (of the meeting) on public participation if he/she believes that the scheme is being abused.
10. A limit on the number of speakers and/or a limit on the time for individual speakers may be imposed by the Chairman in the interests of validating the proper conduct of Council/Committee business.

**NOTE:**

**The Chairman manages the meeting and his/her ruling is not open to discussion.**

**Writing to Meetings**

1. Written representations must be received by the Committee Services team at least 24 hours before the start of the meeting.
2. Written material will be pinned to a notice board in the room where the meeting is to be held at least 30 minutes before the start of the meeting.



## **Advice Regarding Protest Action Affecting West Somerset Council Premises**

### **West Somerset Council does not oppose peaceful protests or demonstrations.**

West Somerset Council recognizes that people have a lawful right to express their views through peaceful demonstrations or protests.

However, we also have a duty to safeguard the general public, our staff, elected members and private and public property.

In order to assist peaceful protest or demonstrations we have prepared the following guidance, which we would ask, people to adhere to.

West Somerset Council has offices in Killick Way, Williton, TA4 4QA. We also have a customer centre in Summerland Road, Minehead. The premises in Williton have an area outside the main entrance, which is free from vehicular traffic. Our premises in Minehead are immediately adjacent to a busy road and passing traffic could present a danger. Therefore, we advise that any demonstrations are undertaken at our Williton offices.

Most of the Council's meetings are held in the Council Chamber at the Williton offices and are open to the public. Further advice regarding specific meetings and how to make representations at meetings can be obtained from our website. Some meetings, or specific agenda items at meetings, require that the public and press are excluded because legislation prevents disclosure of exempt information. We ask that protestors respect this and leave the Chamber when requested to do so.

The public must be able to enter our premises at all times that we are open for business and be able to speak to our staff without hindrance and, if appropriate, in private. Therefore, we do not permit any form of protest action in the public reception area. Similarly, we do not allow photography or any form of audio or visual recording in or into this area. This includes public and media photography, filming or recording.

We also advise that, if demonstrators wish to have direct contact with a particular member of staff or Councillor, this should be arranged in advance. The member of staff or Councillor will have the option to meet a demonstrator in public or in private. The nature of our work is such that it is highly unlikely that a specific person will be available without prior notice.

The Council Chamber has limited capacity and in order to assist us to accommodate the public we would ask that if a protest is being planned you contact us in advance in order that, if appropriate, a larger public venue can be secured.

The council does not condone any protest, demonstration or action that hinders the general public or staff from conducting business, that is perceived to be antisocial behaviour or any action that results in harm to property or person. Appropriate action will be taken immediately in the event that any person or property is put at risk. The council reserves the right to ask people to leave its building(s) and land or take appropriate action to get people removed from its property if it is deemed necessary.

For further information concerning Council meetings, please visit our website at [www.westsomerset.gov.uk](http://www.westsomerset.gov.uk)





# **COMPLAINTS/COMMENTS/ COMPLIMENTS PROCEDURE**

**At West Somerset Council we are committed to providing high quality services to the people of West Somerset**

**This document can be made available in large print, Braille, tape format or in other languages upon request.**

**JANUARY 2007**





## **COMPLAINTS ABOUT A WEST SOMERSET COUNCIL SERVICE**

Your feedback is essential and we welcome your comments, compliments and complaints to help us review and develop our services. By making your views known, you can help us achieve the highest possible standards and provide a better service to everyone. If you feel we have provided a good service, or have done something well, please let us know.

We realise there will be times when things go wrong. If you are dissatisfied with something the Council has done, that you think is wrong or unjust, you should let us know by completing our complaints form, which is available online, from the Council Offices at Williton or from the Contact Centre in Minehead. If you would prefer to record your complaint over the telephone, a member of staff will take down details on the official form and send you a copy of what has been written down. You can also complete the form online and email it to us.

Please try to say clearly and exactly what has been wrongly dealt with and what injustice has been caused. At the same time, please tell us what you think the Council ought to do to put things right to your satisfaction.

### **Special Help**

Please let us know if you have difficulty using our service, for example, if you have a disability or if English is not your first language.

### **The Steps to Follow**

On completion of a complaints form, your comment or complaint will be logged in a central register and passed to the appropriate service area. Your complaint will be acknowledged and you will be advised of the name of the member of staff who will be dealing with your complaint.

Your complaint will be investigated by a suitably qualified member of staff in the service area that you have been dealing with and he or she will send you, within 25 days, in writing, either a full answer or, if more detailed investigation is needed, a progress report.

If you are not satisfied with the reply you receive, you should write to the Chief Executive. He will carry out a further review and reply to you in writing within 15 working days of receiving your letter.

If you are still not satisfied, you have the right to complain to the Local Government Ombudsman (LGO), who is an independent person who investigates allegations of maladministration causing injustice to the person who has complained.

The LGO has a leaflet called 'Complaint about the Council? How to complain to the LGO'. You can obtain a copy by telephoning or writing to The LGO, The Oaks No. 2,

Westwood Way, Westwood Business Park, Coventry, CV4 8JB or by contacting the LGO's advice line on 0834 6021983 or by picking up a leaflet at the Council Offices in Williton or Minehead.

## **Unreasonable Complaints**

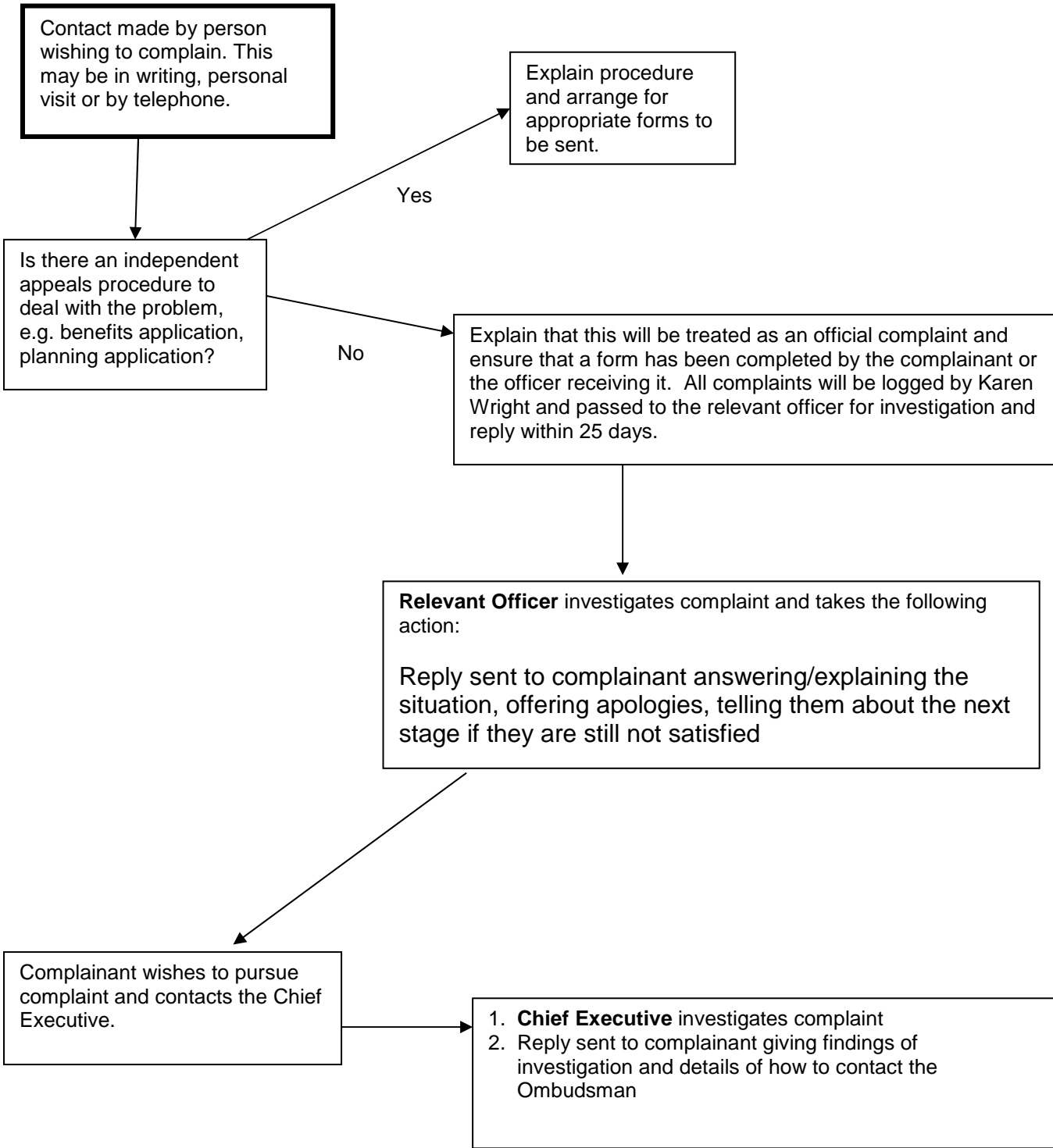
Occasionally the actions and behaviours of some complainants is unreasonable and impedes the investigation, or has a significant resource issue for the Council. A guidance note based on what the Ombudsman would regard as good practice in dealing with such complaints is issued in these cases.

## **Questions**

If you have any questions about this service, please telephone, email, write to or visit

Bruce Lang  
West Somerset Council  
West Somerset House  
Killick Way  
Williton  
Somerset  
TA4 4QA  
Telephone: 01984 635200  
Email: [bdlang@westsomerset.gov.uk](mailto:bdlang@westsomerset.gov.uk)

# COMPLAINTS PROCEDURE



**Note:** Should the complaint be about the Chief Executive the complaint should be forwarded to the Leader of the Council.







**What do you think the Council should do to put things right?**

--

**Signed:**

**Date:**  /  /

A copy of this form will be logged in a central register by the Complaints Administrator, who will identify a senior member of staff to deal with your complaint. You will receive an acknowledgement telling you who is dealing with your complaint. Within 25 days of the date of that acknowledgement you will receive, in writing, either a full report, or a progress report if more details are required.

If you are not satisfied with the reply you receive, then you should write to the Chief Executive, who will carry out a further review.

**FOR OFFICIAL USE:**

<b>Reference Number:</b>	<b>Officer Dealing:</b>	<b>Service Area:</b>
<input type="text"/>	<input type="text"/>	<input type="text"/>

**DATA PROTECTION**

The information contained in this form will be used by West Somerset Council for the purposes indicated and will be further used or transferred to other organisations or individuals, **only** as the law permits.

## MONITORING FORM

Please complete the section below so we can monitor the effectiveness of our equalities policies. The information provided will only be used for statistical monitoring purposes and to ensure that no discrimination takes place.

### ABOUT YOU

Please identify your gender

Male  Female  Prefer not to say

Which age group do you belong to?

Under 25  25 – 34  35 – 44  45 – 54  55+  Prefer not to say

### Please state your ethnicity

Choose ONE section from A to E and tick the appropriate box to indicate your cultural background.

#### A. White

British  Irish  Any other white background

#### B. Dual Heritage (tick all that apply)

Black Caribbean  Asian  White  Black African  Chinese   
Other

#### C. Asian or Asian British

Indian  Pakistani  Bangladeshi  Any other Asian   
background

#### D. Black or Black British

Caribbean  African  Any other Black background

#### E. Chinese or other ethnic group

Chinese  South East Asian

#### Any other group (please write below)

---

Prefer not to say

#### Do you consider yourself to be a disabled person?

(ie do you have physical or mental impairment which has a substantial adverse impact on your ability to carry out normal day-to-day activities?)

Yes  No  Prefer not to say

#### Do you consider yourself to be:

Heterosexual/Straight  Lesbian/Gay  Bisexual  Prefer not to say

**Please state your religion or belief**

No religion  Buddhist  Christian  Hindu  Jewish  Muslim  Sikh

Other (please specify) \_\_\_\_\_

Prefer not to say