

PART 4

RULES OF PROCEDURE

COUNCIL PROCEDURE RULES (ALSO KNOWN AS STANDING ORDERS)

RULES FOR THE REGULATION OF PROCEEDINGS AND BUSINESS

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*** 1. ANNUAL MEETING OF THE COUNCIL**

- 1.1 The Annual Council Meeting will be held, in years when there is an ordinary election of councillors within 21 days of the retirement of the outgoing councillors and, in other years in March, April or May. In either case, the date shall be fixed by the Council and, except where stated otherwise in the summons, shall take place at 6.00 p.m.

The annual meeting will:

- (i) elect a person to preside if the Chair and Vice-Chair of the Council are not present;
- (ii) elect the Chair of Council;
- (iii) elect the Vice-Chair of Council;
- (iv) approve the minutes of the previous meeting;
- (v) receive any announcements from the Chair and/or Head of Paid Service;
- (vi) elect the Leader where this is necessary;
- (vii) note the membership of the Executive;
- (viii) note the membership of the Shadow Executive;
- (ix) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution); decide the size and terms of reference of those Committees and the allocation of seats to political groups in accordance with the political balance rules;
- (x) receive nominations of councillors to serve on each committee and outside body; appoint to those committees and outside bodies (except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive) and if it so determines, appoint from among the voting members appointed as a committee, a person to preside at the meeting of a committee and a person to preside in the absence of the first person;
- (xi) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 Table 3 of this Constitution);
- (xii) approve a programme of ordinary meetings of the Council for the year; and
- (xiii) consider any business set out in the notice convening the meeting.

***2. ORDINARY MEETINGS OF THE COUNCIL**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Annual Council Meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chair and Vice-Chair are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Chair, Leader, members of the Executive, Chairs of Scrutiny Committees or the Head of Paid Service;
- (v) deal with any business from the last Council meeting;
- (vi) deal with questions asked under Rule 10.2;
- (vii) receive any reports from the Executive, the Overview and Scrutiny Committees and the Standards Committee and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations; including external and community partnerships;
- (ix) consider motions; and
- (x) consider any other business specified in the summons to the meeting.

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

3.1 Calling extraordinary meetings

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 Chair of the Council;
- (iii) the Monitoring Officer; and
- (iv) any five members of the Council if they have signed a requisition presented to the Chair of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business

No business other than that specified in the summons to the meeting may be considered at an extraordinary meeting. The summons to the meeting may not include the consideration of the minutes of previous meetings.

***4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

4.1 Allocation

As well as allocating seats on committees, the Council may, at the same time, or at a subsequent meeting, allocate seats for substitute members for any committees except Standards Committee.

4.2 Number

For each committee, the Council may appoint substitutes in respect of each political group, in proportion to the number of members as that group holds ordinary seats on that committee, up to a maximum of 5.

4.3 Powers and duties

Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

4.4 Health and Wellbeing Board

Appointing bodies and the Leader of the Council may appoint a substitute member for each appropriate position on the Health and Wellbeing Board.

4.5 Substitution

Substitute members may attend meetings in that capacity only:

- (i) to take the place of the ordinary member for whom they are the designated substitute;
- (ii) where the ordinary member will be absent for the whole of the meeting; and
- (iii) after giving notification of the intended substitution to the Head of Paid Service in writing, to be delivered or submitted electronically, by 9.00 a.m. on the day of the meeting.

5. TIME AND PLACE OF MEETINGS

Unless the Head of the Paid Service determines otherwise and notifies a different time in the summons, Council meetings will be held at 7.00 p.m. and other meetings will be held at 6.30 p.m. The place of meetings will be determined by the Head of the Paid Service and notified in the summons.

6. NOTICE OF AND SUMMONS TO MEETINGS

The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Head of Paid Service will send a

summons signed by him/her or on his/her behalf to every member of the Council, or Committee either by

- (i) sending it to, or leaving it at the member's usual place of residence; or
- (ii) where the member has specified an address other than their usual place of residence, by sending it to, or leaving it at, that other address; or
- (iii) where the member has given consent for the summons to be transmitted in electronic form to a particular electronic address (and consent has not been withdrawn) sending it in electronic form to that address.

The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. CHAIR OF MEETING

7.1 Chair of the Council

The Mayor for the time being is the Chair of the Council and is elected at the Annual Council Meeting.

7.2 Chairs of Committee and Sub-Committees

- (a) If no persons are appointed under Rule 1(x) then the Committee, at its first meeting after the Annual Council Meeting, will appoint a person from among its voting members to preside at its meetings together with a person to preside in the absence of the first person.
- (b) A committee may appoint from among the voting members a person to preside at the meetings of any sub-committee appointed by them together with a person to preside in the absence of the first person. If a committee does not make any such appointments then the sub-committees will make the appointments at its first meeting.
- (c) If the persons appointed under Rules 1(x), 7.2(a) or 7.2(b) are absent then a meeting of a committee or sub-committee will appoint a person to preside at that meeting from among the voting members present.

7.3 The person presiding at the meeting may exercise any power or duty of the Chair. The rule of the Chair as to the application or construction of any of these Rules of Procedure shall not be challenged at any meeting. Where these rules apply to committee and sub-committee meetings, references to the Chair also include the Chair of committees and sub-committees.

7.4 The order of business shall be as set out in the agenda but (subject to any statutory requirements) may be varied by the Chair at his or her discretion.

8. QUORUM

(a) Council

The quorum of a meeting of the Council will be one quarter of the whole number of members.

(b) Committees and Sub-Committees

The quorum of meetings of committees (except Standards Committee and Appointment and Appeals Committees) and sub-committees shall be one quarter of the membership of the committee or sub-committee subject to a minimum of four voting members being present at a committee and two at a sub-committee.

(c) Standards Committee

- (i) A meeting of the Standards Committee (or any sub-committee) shall not be quorate unless at least three members, including at least one independent member of that committee (or sub-committee) are present.
- (ii) where at least one independent member would have been present for the duration of the meeting but for the fact that (s)he was prevented or restricted from participating in any business of the authority by virtue of the code of conduct, the requirement in (i) for the quorum to include at least one independent member shall not apply.
- (iii) if no Parish Council sub-committee has been appointed then, if matters relating to parish councils or the members of parish councils are being considered at the Standards Committee, one parish member must be present when those matters are considered.

(d) Appointment and Appeals Committees

For meetings of Appointment and Appeal Committees the quorum shall be as follows:

- (i) for a committee comprising 3 members the quorum shall be 2
- (ii) for a committee comprising 5 members the quorum shall be 3
- (iii) in all other cases the quorum shall be 4

(e) Health and Wellbeing Board

The quorum of a meeting of the Health and Wellbeing Board will be a minimum of five members with at least two Local Authority members and two Clinical Commissioning Group members present.

If, during any meeting, the Chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETING

9.1 Interruption of the meeting

9.1.1 Except in respect of 9.1.2 below if the business of the meeting has not been concluded by 9.30 p.m., the Chair must interrupt the meeting and any member speaking must immediately sit down. The Chair will at his/her discretion either call for the vote immediately on the item under discussion, (the vote will then be taken in the usual way without any further discussion) or adjourn the meeting to a date and time to be agreed by the members present. In the absence of a decision by the Members, the Head of the Paid Service, in consultation with the Chair, shall fix the date and time of the resumed meeting.

9.1.2 Nothing in paragraph 9.1.1 shall prevent the Chair of any regulatory committee from allowing that committee to proceed to the determination of a matter already under discussion after 9.30 p.m.

9.1.3 A regulatory committee is a committee which carries out functions set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

10. QUESTIONS BY MEMBERS

***10.1 On reports of the Executive or committees**

A member of the Council may ask the Leader, a Member of the Executive or the Chair of a committee any question without notice upon an item of the report of the Executive or a committee when that item is being received or is under consideration by the Council.

***10.2 Questions on notice at full Council**

Subject to Rule 10.4, a member of the Council may ask:

- the Chair;
- a member of the Executive ; or
- the Chair of any committee or sub-committee

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

10.3 Questions on notice at committees and sub-committees

Subject to Rule 10.4, a member of a committee or sub-committee may ask its Chair a question on any matter in relation to which the Council has powers or duties or which affect the Borough and which falls within the terms of reference of that committee or sub-committee.

10.4 Notice of questions

A member may only ask a question under Rule 10.2 or 10.3 if:

- (a) the question does not relate to a matter currently under review by an Overview and Scrutiny Committee; and
- (b) notice of the question has been given to the Head of Paid Service in writing not later than 4.00 p.m. one clear working day before the date of the meeting; or
- (c) where the question relates to urgent matters, he/she has the consent of the Member to whom the question is to be put and the content of the question is given to the Head of Paid Service by 12 noon on the day of the meeting.

Every question shall be put and answered without discussion, but the person to whom a question is put may decline to answer.

10.5 Response

An answer may take the form of:

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

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

11.1 Notice

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by at least 2 members, or with electronic consent of at least 2 members must be delivered or submitted electronically to the Head

of Paid Service not later than 4.00 p.m. six clear working days before the date of the meeting. These will be available for public inspection.

11.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda summons 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.

11.3 Scope

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

12. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda summons;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee, sub-committee or members thereof arising from an item on the agenda for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (n) to suspend a particular Council procedure rule in accordance with Rule 23.1
- (o) to exclude the public and press in accordance with the Access to Information Rules;

- (p) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

13. RULES OF DEBATE

13.1 No speeches until motion or amendment seconded

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

13.2 Right to require motion in writing

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

13.3 Content, length and number of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. The Chair will have overall control over the length, content and number of speeches where necessary and shall decide when a matter has been discussed enough for the debate to be closed and a vote taken. In limiting the number of members speaking in the debate and the time of speeches, the Chair shall have regard to the need to complete the business within the time set.

13.4 Amendments to motions

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

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

- (b) It is recommended that any amendments put forward to the Executive's recommendations for the Council's budget must be costed and that the Corporate Director of Finance and Systems should confirm that the proposals in the amendment are robust.

- (c) 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.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Chair may, for the purpose of clarity, read out the amended motion before accepting any further amendments, or if there are none, putting it to the vote.

13.5 Alteration of motion

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

13.6 Withdrawal of motion

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

13.7 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.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

13.8 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions. With the exception of motions under (g) and (h) below, such motions can only be moved at the end of any speech currently in progress:

- (a) to withdraw the motion;
- (b) to amend the motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn the debate;
- (f) to adjourn the meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

13.9 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 the debate; or
 - (iv) to adjourn the meeting.
- (b) If a motion to proceed to next business is seconded and the Chair 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 Chair thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair 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.
- (e) An equivalent procedure will be followed where the closure motion is moved during the debate on an amendment.

13.10 Point of order

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

13.11 Personal explanation/Clarification of previous speech

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 Chair on the admissibility of such personal explanation/clarification will be final.

***14. STATE OF THE AREA DEBATE**

14.1 Calling of debate

The Leader may call a state of the area debate to be held once in any municipal year on a date to be agreed with the Chair.

14.2 Form of debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the area debate and may be undertaken in conjunction with the local strategic partnership.

14.3 Chairing of debate

The debate will be chaired by the Chair of the Council.

14.4 Results of debate

The results of any such debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

15. PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

Unless needed to ensure that the Council complies with the law, a motion to rescind a decision made at a Council meeting within the past six months cannot be moved unless the notice of motion is signed by at least 16 members.

15.2 Motion similar to one previously rejected

Unless needed to ensure that the council complies with the law, a motion in similar terms to one that has been rejected at a Council meeting in the past six months cannot be moved unless the notice of motion under Rule 11 is signed by at least 16 members. Once the motion is dealt with, no one can propose a similar motion or amendment for six months.

15.3 Changed Circumstances

A motion which has the effect of negating a decision made at a meeting of Council within the preceding six months cannot be moved unless there is some fresh information or other changed circumstances which justify such a course. The ruling of the Chair as to what is fresh information or changed circumstances shall be binding on the meeting.

16. VOTING

16.1 Majority

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

16.2 Chair's casting vote

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

16.3 Method of voting

Unless a ballot or recorded vote is demanded under Rules 16.4 and 16.5, the Chair will take the vote by show of hands, or by the use of an electronic voting system, or if there is no dissent, by the affirmation of the meeting.

16.4 Ballots

The vote will take place by ballot if a majority of the members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

16.5 Recorded vote

If 3 members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and recorded in the minutes. A demand for a recorded vote will override a demand for a ballot. A recorded vote on the annual budget will be taken down and recorded in the minutes.

16.6 Right to require individual vote to be recorded

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

16.7 Voting on appointments

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

17. MINUTES

17.1 Signing the minutes

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

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

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

17.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Chair put them to the vote.

18. RECORD OF ATTENDANCE

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

19. EXCLUSION OF PUBLIC

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

20. MEMBERS' CONDUCT

***20.1 Standing to speak**

When a member speaks at a Council meeting they must stand (unless prevented by illness or otherwise) and address the meeting through the Chair. If more than one member stands, the Chair will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

***20.2 Chair standing**

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

20.3 Member not to be heard further

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

20.4 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Chair 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.

20.5 General disturbance

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

21. DISTURBANCE BY THE PUBLIC

21.1 Removal of member of the public

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

21.2 Clearance of part of meeting room

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

22. MEDIA

22.1 The Council will make reasonable facilities available for the reporting of the proceedings of any meeting. Any reporting of discussions of items covered by Section 10 of the Access to Information procedure rules is prohibited.

- (1) While a meeting of the Council, Executive, a Committee or Sub Committee is open to the public, any person attending is permitted to report on the meeting by filming, photographing or making an audio recording of proceedings at the meeting. They may also use any other means for enabling persons not present to see or hear proceedings at such a meeting as it takes place or later and may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities.
- (2) Should a person cause a disturbance at a meeting whilst reporting on the proceedings, for example by:
 - moving to areas outside the areas designated for the public without the consent of the Chair,
 - making excessive noise in recording or setting up or re-siting equipment during the debate/discussion,
 - intrusive lighting and use of flash photography; or
 - asking for people to repeat statements for the purposes of recordingthen the provisions of rule 21 (disturbance by the public) shall apply.
- (3) Nothing in this rule shall allow any person to report on any part of a meeting, without the consent of the meeting, whilst the public is excluded to allow it to debate confidential or exempt matters.

23 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

23.1 Suspension

All of these Council Rules of Procedure except Rules 9.1.1, 16.6 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

23.2 Amendment

- (a) Unless paragraph (b) applies 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.
- (b) If a recommendation to add to, vary or revoke these Rules is made by the Standards Committee or the Monitoring Officer the matter will be considered at the same meeting of the Council.

24. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Executive. Only Rules 5–13, 15–23 (but not Rule 20.1) apply to meetings of committees and sub-committees.

25. BOOKS

All books referred to in these Procedure Rules shall be kept by the Monitoring Officer.

26. INTERPRETATION

- 26.1 Throughout these Procedure Rules the phrase “working day” shall mean Monday to Friday in any week except public holidays or any other days when the offices at Trafford Town Hall are officially closed.

N.B. Those Rules marked * apply to meetings of the full Council only.

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, overview and scrutiny committees, the Standards Committee, regulatory committees, Health and Wellbeing Board and public meetings of the Executive and its committees (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS AND ASK QUESTIONS

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

Members of the public may ask questions of the Chair at any meeting of the Executive or Committee subject to

- a) The questions being within the remit of the Executive or Committee or that they relate to a matter under discussion at the meeting.
- b) The questions being submitted to the Council via email by 4pm on the day before the meeting.
- c) That the time to be allowed for all questions to be put and answered is limited to 15 minutes at the start of the meeting.

4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at its main administrative building and on its website.

5. ACCESS TO SUMMONS AND AGENDA AND REPORTS BEFORE THE MEETING

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

6. SUPPLY OF COPIES

The Council will supply copies of:

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

- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Head of Paid Service thinks fit, copies of any other documents supplied to councillors in connection with an item
- (d) to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES AND RECORDS OF DECISIONS

The Council will make available copies of the following for six years after a meeting and make them available on the website:

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

8. BACKGROUND PAPERS

8.1 List of background papers

The appropriate Corporate Director or Director will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

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

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 and make them available on its website.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main administrative building.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

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

10.2 Exempt information – discretion to exclude public

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

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

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to the public interest test):

1	Information relating to any individual.
2	Information which is likely to reveal the identity of an individual.
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes— (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

8	<p style="text-align: center;"><u>Qualifications</u></p> <p>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993.
9	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p>
10	<p>Information which –</p> <ul style="list-style-type: none"> (a) falls within any of paragraphs 1 to 7 above; and (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, <p>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.</p>

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. APPLICATION OF RULES TO THE EXECUTIVE

In addition to Rules 1-11 the Executive and its committees must also comply with Rules 13 – 21 unless Rule 15 (general exception) or Rule 16 (special urgency) applies.

13. PROCEDURES PRIOR TO MEETINGS OF THE EXECUTIVE OR ITS COMMITTEES

- 13.1 Subject to Rule 10, a decision-making meeting of the Executive or its committees must be held in public. Notice of the meeting will be given in accordance with Rule 4 (notices of meeting) and also be published on the Council's website at least five clear days before the meeting or where the meeting is convened at shorter notice, at the time that the meeting is convened. In addition to Rule 5 (access to agenda and reports before the meeting) the

Council will make copies of the agenda and reports open to the public available on its website.

13.2 Subject to Rule 16 (special urgency), where a decision-making meeting is to be held in private, a notice of the intention to hold a meeting in private, including a statement of the reasons for the meeting to be held in private, will be made available at the Council offices and published on the website at least 28 clear days before the meeting. A further notice of the intention to hold the meeting in private will be made available at the Council offices and published on the website at least 5 clear days before the meeting and will include:

- (a) a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received about why the meeting should be open to the public; and
- (c) a statement of the Executive's response to any such representations.

This requirement does not apply to meetings whose sole purpose is for officers to brief members.

14. **PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken until a notice has been made available at the Council offices and published on the website at least 28 clear days before the meeting stating:

- (a) that a key decision is to be made;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name and title if any and where the decision maker is a decision-making body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

Where a key decision is to be taken in private, the above notice must contain particulars of the matter but does not require the disclosure of exempt or confidential information or advice from a political assistant.

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

15. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the notice referred to in Rule 14 (procedure before taking key decisions), then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the proper officer has informed the Chair of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
- (b) the proper officer has made copies of the notice referred to in (a) available to the public at the offices of the Council and on the Council's website; and
- (d) at least 5 clear days have elapsed since the proper officer complied with (b).

As soon as reasonably practical after compliance with the above, a notice setting out the reasons why a key decision has not been included in the notice referred to in Rule 14 (procedure before taking key decisions) will be made available at the Council offices and published on its website.

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed and/or is a matter to be determined in private which has not been included in the notice referred to in Rule 13.2 (procedures prior to meetings of the Executive or its Committees, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of a relevant overview and scrutiny committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chair of a relevant overview and scrutiny committee, or if the Chair of a relevant overview and scrutiny committee is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice-Chair of the Council will suffice.

As soon as reasonably practical after compliance with the above, a notice setting out the reasons why the making of a key decision is urgent and cannot reasonably be deferred will be made available at the Council offices and published on its website.

17. REPORT TO COUNCIL

17.1 When an overview and scrutiny committee can require a report

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

- (a) included in the Notice of Intention to Take Key Decisions or in a notice to the relevant Chair of Scrutiny Committee where this was impractical

- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee Chair, or Chair/Vice-Chair of the Council under Rule 16;

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

17.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 working days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Reports on special urgency decisions

In any event the Leader will submit at least one report annually to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) during the period since the last report was submitted. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

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

19. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

19.1 Executive Members

- a) All members of the Executive will be served notice of all private meetings of committees of the Executive, whether or not they are members of that committee.
- b) All members of the Executive are entitled to attend a private meeting of any committee of the Executive.

19.2 Other Members

- a) Members other than executive members will be able to attend and/or speak at private meetings of the Executive and its committees if invited to do so by the Leader but only Members of the Executive may vote.

19.3 Officers

- a) The Head of Paid Service, the Corporate Director of Finance and Systems and the Monitoring Officer, and their nominees are entitled to attend any public meeting of the Executive and its committees. The Executive may not meet in public or private unless the proper officer has been given reasonable notice that a meeting is to take place.
- b) A private executive meeting will usually take place in the presence of the proper officer or his/her nominee with responsibility for recording and publicising the decisions.

There is no requirement for the Executive to meet in the presence of an officer.

The provisions of Rule 18 (recording and publicising decisions) will apply in respect of private meetings of the Executive.

20. **DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE AND OFFICERS**

20.1 **Reports intended to be taken into account**

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

20.2 **Provision of copies of reports to overview and scrutiny committees**

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

20.3 **Record of individual decision**

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

21. ACCESS TO INFORMATION FOR NON-EXECUTIVE MEMBERS

21.1 Rights to Copies

All Members and co-opted Members will be entitled to inspect and have copies of any document which is in the possession of or under the control of the Executive or its committees and which contains material relating to:-

- a) any business transacted at a decision-making meeting
- b) any decision made by an individual Member of the Executive
- c) any decision made by an officer in accordance with executive arrangements

The Executive will provide such documents as soon as reasonably practicable and in any case no later than 10 clear days after it receives the request.

In addition, all Members will be entitled to receive a copy of the agenda and reports for public meetings of the Executive and its committees and Rule 21.2(b) will not as such apply to such reports.

21.2 Limit on Rights

Members and co-opted Members will not be entitled to inspect or take copies of:-

- a) any document that is in draft form
- b) any document or part of a document that contains exempt information falling within paragraphs 1 to 6, 9,11,12 and 14 of the categories of exempt information unless that document is relevant to an executive decision that is subject to the call in procedure.
- c) any document that contains the advice of a political adviser

21.3 Additional Rights for Members of Overview and Scrutiny Committees

Members of Overview and Scrutiny Committees are also entitled to documents containing exempt or confidential information if that information is relevant to an action or decision (s)he is reviewing or scrutinising or is relevant to any reviews contained in that Committee's work programme.

21.4 Executive Statement in Respect of No Right of Access

Where the Executive determines that a Member or co-opted Member is not entitled to a copy of a document or part of any such document for a reason set out in 21.1 – 21.3, it will provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

21.5 Definition of ‘document’

‘Document’ as referred to above means any report or background papers, other than that in draft form, taken into consideration in relation to an executive decision which has been or is to be made.

21.6 Nature of rights

These rights are additional to any other rights a Member may have.

21.7 Proper Officer

For the purpose of these rules the Proper Officer is the Monitoring Officer.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The framework for executive decisions

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

2. Process for developing the framework

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

- (1) The Executive will publicise by setting out 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 any arrangements for consultation after publication of initial proposals. The Chairs of overview and scrutiny committees will also be notified.
- (2) If a relevant overview and scrutiny committee wishes to respond to the Executive in any consultation process then it may do so. As the overview and scrutiny committees have responsibility for fixing their own work programme, it is open to the overview and scrutiny committee to investigate, research or report in detail with policy recommendations before the end of any consultation period. The Executive will take any response from an overview and scrutiny committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- (3) Once the Executive has approved the firm proposals for any plan, strategy or budget, the proper officer will refer them at the earliest opportunity to the Council for decision.
- (4) In reaching a decision the Council may, subject to rule 8, adopt the Executive's proposals, amend them, refer them back to the Executive for further consideration or substitute its own proposals in their place.
- (5) The Capital Strategy will be considered as part of the budget process and the capital budget will be considered as a rolling programme by the Executive at various stages throughout the year.
- (6) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with rules 5 and 6. Any other changes to the budget and policy framework are reserved to the Council.

3. Decisions outside the budget or policy framework

- (1) Subject to the provisions of rules 4 to 6 the Executive, committees of the Executive, individual members of the Executive and any officers, or joint arrangements discharging executive functions may only take decisions

which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council.

- (2) If the Executive, committees of the Executive, members of the Executive and any officers, or joint arrangements discharging executive functions want to make a decision as set out in (1) above, they shall take advice from the Monitoring Officer and/or the Corporate Director of Finance and Systems as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in rule 4 shall apply.

4. Urgent decisions outside the budget or policy framework

- (1) The Executive, a committee of the Executive, an individual member of the Executive or officers, or joint arrangements 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 budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

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

and

- ii) if the Chair of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency. In the absence of the Chair of a relevant overview and scrutiny committee the consent of the Chair of the Council and, in the absence of both the Vice-Chair of the Council, will be sufficient.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant overview and scrutiny committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision.

- (2) 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

- (1) The Council's budget heads will be established by the Council from time to time and set out in the Council's Revenue Budget.

- (2) Steps taken by the Executive, an individual member of the Executive or officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, subject to statutory constraints such bodies or individuals shall be entitled to vire across budget heads up to a maximum of 10% of the gross budget of the budget head from which the virement is taken. Beyond that limit, approval to any virement across budget heads shall require the approval of the full Council.

6. In-year changes to policy framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, a committee of the Executive, an individual member of the Executive or officers, or joint arrangements 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 will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- (d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

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

- (1) Where an overview and scrutiny committee or the Chair of such a committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Corporate Director of Finance and Systems, who may prepare a report.
- (2) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Corporate Director of Finance and Systems' report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of such a report and prepare a report to:
 - i) Council in the event that the Monitoring Officer or the Corporate Director of Finance and Systems conclude that the decision was a departure, and
 - ii) to the relevant overview and scrutiny committee if the Monitoring Officer or the Corporate Director of Finance and Systems conclude that the decision was not a departure.

- (3) 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 Corporate Director of Finance and Systems is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee or Chair should 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 10 working days of the request by the overview and scrutiny committee unless the next ordinary meeting of council will take place within 14 days in which case the request will be considered at that meeting. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Corporate Director of Finance and Systems. 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 Procedure 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;
 - iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Corporate Director of Finance and Systems.

8. Dispute Resolution

- (1) Where, following consideration of the Executive's proposals for any plan or strategy, the Council has any objections to them, the Council must take the action set out in 8 (2).
- (2) Before the Council —
- (a) amends a proposed plan or strategy;
 - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
 - (c) adopts (with or without modification) a proposed plan or strategy,

it must inform the Executive Leader of any objections which it has to the proposals and must give to him/her instructions requiring the Executive to reconsider, in the light of those objections, the proposals submitted to it.

- (3) Where the Council gives instructions in accordance with 8(2), it must specify a period of at least five working days beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Executive within which the Executive Leader may —

- (a) submit a revision of the proposals as amended by the Executive (the “revised proposed plan or strategy”) with the Executive’s reasons for any amendments made to the proposals, to the Council for the Council’s consideration; or
- (b) inform the council of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.

- (4) When the period specified by the Council, referred to in 8(3) has expired, the Council must meet within a reasonable time, the date being agreed by the Chair of the Council and the Head of Paid Service. When —

- (a) amending the proposed plan or strategy or, if there are any revisions, the revised proposed plan or strategy;
- (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (c) adopting (with or without modification) the proposed plan or strategy,

the Council must take into account any amendments made to the proposals that are included in any revised proposed plan or strategy, the Executive’s reasons for those amendments, any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for that disagreement, which the Executive Leader submitted to the Council, or informed the Council of, within the period specified.

- (5) Subject to 8(9) below where, in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (b) estimates of other amounts to be used for the purposes of such a calculation;

- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992.

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in 8 (6).

- (6) Before the Council makes a calculation (whether originally or by way of a substitute) in accordance with any of the sections referred to in 8(5)(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Executive Leader of any objections which it has to the Executive's estimates or amounts and must give to him/her instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (7) Where the Council gives instructions in accordance with (6), it must specify a period of at least five working days beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Executive within which the Executive Leader may —
 - (a) submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
 - (b) inform the Council of any disagreement that the Executive has with any of the council's objections and the Executive's reasons for any such disagreement.
- (8) When the period specified by the Council, referred to in 8(7) has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 8(5)(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:-
 - (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
 - (b) the Executive's reasons for those amendments
 - (c) any disagreement that the Executive has with any of the authority's objections; and
 - (d) the Executive's reasons for that disagreement,

which the Executive Leader submitted to the Council, or informed the Council of, within the period specified.

(9) Paragraphs (5) to (8) shall not apply in relation to —

- (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with Section 52J or 52U of that Act.

EXECUTIVE PROCEDURE RULES

1. How the Executive operates

1.1 Who may make executive decisions

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

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

1.2 Delegation by the Leader

At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. If this is not practicable the Leader will present such a record to the first ordinary meeting of the Council after the Annual Meeting. The documents presented by the Leader will contain the following information about executive functions in relation to the coming year:

- i) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- ii) the terms of reference and constitution of such executive committees as the Leader appoints and the names of executive members appointed to them;
- iii) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and
- iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

- (a) Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an executive function, they may delegate further to joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a committee of the Executive or to an officer.

- (c) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who made that delegation.

1.4 The Council's scheme of delegation and executive functions

- (a) Subject to (b) and (c) below, the Council's scheme of delegation of executive functions will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) If the Leader is able to decide whether to delegate executive functions, (s)he may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must either make the amendment at a meeting of the Executive attended by the proper officer or the proper officer's representative or give written notice to the proper officer. The person, body or committee to whom the delegation is given must be informed by the Proper Officer. Any written notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

- 1.5 The delegations referred to in paragraphs 1.2 and 1.4 need only be set out in Part 3 of this Constitution or reported to the Council if they will exceed, or are capable of exceeding, 6 months in duration.

1.6 Conflicts of Interest

If the exercise of an executive function has been delegated to a committee of the Executive, an individual member or an officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made.

1.7 Place and time of Executive Meetings

The Executive will meet at times to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader.

1.8 Quorum

The quorum for a meeting of the Executive shall be 3. The quorum for a meeting of a committee of the Executive shall be 2.

1.9 Decision Making

- (a) Executive decisions shall be taken in accordance with the principles set out in Article 13 of the Constitution.
- (b) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (c) Where executive decisions are delegated to a committee of the Executive the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

2. The conduct of Executive meetings

2.1 Chair of meeting

If the Leader is present (s)he will chair the meeting. In his/her absence, then the Deputy Leader will chair the meeting. In the absence of both, a person appointed to do so by those present shall chair the meeting.

2.2 Attendance

Attendance shall be as set out in the Access to Information Rules in this part of the Constitution.

2.3 Business to be conducted

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

- ii) consideration of the minutes of the last meeting;
- iii) matters referred to the Executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this part of this Constitution;
- iii) consideration of reports from overview and scrutiny committees; and
- iv) matters set out in the agenda for the meeting; and
- v) if the meeting is held in public the agenda shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

2.4 Consultation

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the

nature and extent of any consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Rights to place items on the Executive agenda

- (a) The Leader will decide upon the timetable for the meetings of the Executive and may call extraordinary meetings if (s)he believes it necessary. (S)he may put on the agenda of any executive meeting any matter which (s)he wishes, whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.
- (b) Any member of the Executive may, after discussion with the Leader require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If he/she receives such a request the proper officer will comply.
- (c) There will be a standing item on the agenda of each meeting of the Executive for matters referred by the full Council or by overview and scrutiny committees for reconsideration. However there may only be up to 3 such items per executive meeting.
- (d) There will be a standing item on the agenda of each meeting of the Executive for matters referred by the full Council or by overview and scrutiny committees for consideration. However there may only be up to 3 such items per executive meeting.
- (e) The number of items which can be placed on an agenda under (c) and (d) above may, at the discretion of the Leader, be increased in respect of any Executive agenda.
- (f) Any member of the Council through the Leader of their political group (or, if not in a political group, direct to the Leader of the Council) may ask the Leader of the Council to put an item on the agenda of an executive meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Executive.
- (g) The Monitoring Officer and/or the Corporate Director of Finance and Systems may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Corporate Director of Finance and Systems and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the

agenda may also require that a meeting be convened at which the matter will be considered.

- (h) Notwithstanding the above the Chief Executive, in the circumstances set out at Rule 12(a) of the Overview and Scrutiny Procedure Rules, can place an item on the agenda.

2.6 Time and Duration of the Meeting

Meetings of the Executive that take place in public will begin at 6.30 p.m. unless the Leader determines otherwise and will finish no later than 9.30 p.m. If any business remains outstanding the Leader will fix a date and time for a resumed meeting.

3. The Conduct of Executive Committee meetings

3.1 Chair of the meeting

The person appointed by the Executive to be the Chair of the committee shall chair the committee. In his/her absence, or if no such person has been appointed, a person appointed to do so by those present shall chair the meeting.

3.2 Attendance and speaking at meetings

- i) Attendance shall be as set out in the Access to Information Rules in this part of the Constitution.
- ii) Members of the public, including councillors who are not members of the committee of the Executive, may speak at meetings of the Executive held in public if invited to do so by the Leader, or other Executive Member chairing the meeting. Questions by members of the public should adhere to the following.:
 - a) The questions being within the remit of the Executive or that they relate to a matter under discussion at the meeting.
 - b) The questions being submitted to the Council via email by 4 p.m. on the day before the meeting.
 - c) That the time to be allowed for all questions to be put and answered is limited to 15 minutes at the start of the meeting.
- iii) Councillors who are not members of the Executive may remain in such a meeting of the Executive when exempt information is discussed if invited to do so by the Leader, or other Executive Member chairing the meeting

3.3 Business to be conducted

- i) consideration of the minutes of the last meeting (if any);
- ii) matters referred to the Executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny

Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this part of this Constitution;

iii) Public Questions

iv) consideration of reports from overview and scrutiny committees;

v) matters set out in the agenda for the meeting, and

vi) if the meeting is held in public the agenda shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

3.4 Rights to place items on Executive Committee agendas

(a) The Chair of the committee, or the Leader if there is no Chair, will decide the dates upon which the committee will meet. The Chair or the Leader may put on the agenda of the committee any matter which (s)he wishes provided it is within the delegated authority of that committee. The proper officer will comply with the requests of the Leader and the Chair in this matter.

4. Arrangements for the absence of the Leader

4.1 In the absence of the Leader the Deputy Leader will exercise responsibility as if all references to the Leader in this Constitution were references to the Deputy Leader with the exception of those responsibilities which by law can only be exercised by the Leader.

5. **Proper Officer**

The Proper Officer for the purposes of these Procedure Rules is the Monitoring Officer.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Number and arrangements for overview and scrutiny committees

- (a) The Council will have the overview and scrutiny committees set out in Article 6 and will appoint to them as it considers appropriate from time to time.
- (b) Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist. Joint Committees may also be appointed by Council for specific purposes and shall cease to exist when that purpose has been fulfilled.
- (c) A set of Overview and Scrutiny Protocols are included in this Constitution under Part 5 (Codes and Protocols).

2. Membership of overview and scrutiny committees

All Councillors, except Members of the Executive, are eligible to be appointed to the Scrutiny Committee, Health Scrutiny Committee, Children and Young People's Scrutiny Committee and any Groups that either Committee may establish. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

3. Co-optees

Each overview and scrutiny committee shall be entitled to appoint up to 3 people as non-voting co-optees.

4. Education representatives

The Children and Young People's Scrutiny Committee when dealing with education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) 3 parent governor representatives.

When the Children and Young People's Scrutiny Committee deals with matters that do not relate to the authority's education functions, the above-mentioned representatives shall not vote on those matters, though they may stay in the meeting and speak.

5. Meetings of the overview and scrutiny committees

Ordinary meetings of the Scrutiny Committee, Health Scrutiny Committee and Children and Young People's Scrutiny Committee shall be as agreed by the Council. In addition, extraordinary meetings may be called from time to time as

and when appropriate. A meeting may be called by the Chair of the relevant Committee or by the Corporate Director of Governance and Community Strategy. A meeting of the Scrutiny Committee, Health Scrutiny Committee or Children and Young People's Scrutiny Committee may be called by any three Members of the Committee of which they hold membership.

6. Quorum

The quorum for an overview and scrutiny committee shall be as set in the Council Procedure Rules in this part of this Constitution.

7. Chairs and Vice-Chairs of overview and scrutiny committee meetings

The Chair of the Scrutiny Committee will be drawn from the ruling group on the Council. The Vice-Chair of the Scrutiny Committee will be a Member of the main opposition group on the Council.

The Chair of the Health Scrutiny Committee will be drawn from the largest opposition group on the Council. The Vice-Chair of the Health Scrutiny Committee will be a Member of the ruling group on the Council.

The Chair of the Children and Young People's Scrutiny Committee will be drawn from the ruling group on the Council. The Vice-Chair of the Children and Young People's Scrutiny Committee will be a Member of the main opposition group on the Council.

The Chairs of each Scrutiny Committee are appointed as ex-officio Members of the other scrutiny committees.

The Chair of the Scrutiny Committee will be consulted by the Health Scrutiny Committee and will hold the power of veto in respect of any proposed referral of a substantial variation as defined in the Health and Social Care Act 2012 to the Secretary of State.

8. Work programme

The work programme for the Overview and Scrutiny function will be approved, amended as appropriate and kept under review by the appropriate Scrutiny Committee in accordance with the arrangements described in Section 3 of Part 3 of this Constitution. In developing any such programme, the Scrutiny Committee will have regard to the wishes of the Members of the Scrutiny Committee (including those who are not Members of the ruling group on the Council) and other non Executive Members who do not serve on that Committee.

The Scrutiny Committee, Health Scrutiny Committee and Children and Young People's Scrutiny Committee, as soon as work programmes permit, will consider requests from the Council or the Executive to undertake review work.

9. **Agenda items**

- (a) (i) Any member of an overview and scrutiny committee shall be entitled to give notice to the proper officer that (s)he wishes an item relevant to the functions of that committee to be included on the agenda for the next available meeting of the committee.

Before making such a request members are encouraged to discuss any such item with the Chair of the committee to determine the best way of dealing with the item.

- (ii) On receipt of such a request the proper officer shall inform the Chair of the relevant scrutiny committee of the request and make arrangements for the matter to be included on the agenda at the next available meeting of that committee. It will then be for the committee to determine how that item shall be dealt with.
- (b) (i) Any other members of the Council (i.e. those who are not members of the relevant committee shall, after having had regard to any relevant guidance issued by the Secretary of State, be entitled to give notice to the proper officer that (s)he wishes a local government matter (as defined in S21A of the Local Government Act 2000 as amended) relevant to the functions of that committee to be included on the agenda for the next available meeting of the committee.
- (ii) On receipt of such a request the proper officer shall inform the Chair of the relevant committee of the request and make arrangements for the matter to be included on the agenda at the next available meeting of that committee. It will then be for the committee to determine how that matter shall be dealt with.
- (c) Any 3 members of the Council who are not members of the overview and scrutiny committees may make a written request to the Chair of the relevant overview and scrutiny committee that they wish an item to be included on the agenda of that committee. If the Chair accepts the request (s)he shall give the proper officer notification of the request and the proper officer will include the item on the first available agenda of that overview and scrutiny committee for consideration.
- (d) As soon as their work programme permits, the committees shall also respond to requests from the Council and, if it considers it appropriate, the Executive, to review particular areas of Council activity. Where they do so, the committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the committee at its next available meeting.

10. Policy review and development

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

11. Reports from overview and scrutiny committee

- (a) Once it has formed recommendations on proposals for development, an overview and scrutiny committee will prepare a formal report and submit it to the Chief Executive for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If an overview and scrutiny committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.

12. Consideration of overview and scrutiny reports by the Executive

- (a) Once an overview and scrutiny committee has completed its deliberations on any matter it will forward a copy of its final report to the Chief Executive who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework.
 - (i) If the Chief Executive refers the matter to Council, (s)he will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have 6 weeks in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an overview and scrutiny committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Executive to the overview

and scrutiny proposals. The Council shall meet to consider any referral from an overview and scrutiny committee within 8 weeks of the report being submitted to the Chief Executive.

- (ii) If the Chief Executive refers the matter to the Executive, the Executive shall consider the report at its next available meeting. Where the Executive does not consider the matter within 8 weeks after referral by the Chief Executive, the Chief Executive will place the item on the agenda of the next meeting of the Executive.
- (b) Where an overview and scrutiny committee prepares a report for consideration by the Executive in relation to a matter where the Leader or Council has delegated decision-making power to another individual member of the Executive, then the overview and scrutiny committee will submit a copy of their report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the proper officer and the Leader. If the member with delegated decision making power does not accept the recommendations of the overview and scrutiny committee then he/she must then refer the matter to the next available meeting of the Executive for debate before exercising his/her decision-making power and responding to the report in writing to the overview and scrutiny committee. The Executive member to whom the decision making power has been delegated will respond to the overview and scrutiny committee within 6 weeks of receiving the report. A copy of his/her written response to it shall be sent to the proper officer and the Executive member will attend the future meeting of the relevant Overview and Scrutiny committee at which their response is considered.
- (c) Overview and scrutiny committees will in any event have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision. Any report of an Overview and Scrutiny Committee in relation to an item on the forward plan shall be taken into account by the Executive, or other decision maker, in making the decision.

13. Rights of overview and scrutiny committee members to documents

- (a) In addition to their rights as councillors, members of overview and scrutiny committees 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 Rule 12 prevents more detailed liaison between the Executive committee and overview and scrutiny committees as appropriate depending on the particular matter under consideration.

14. Members and officers giving account

- (a) Any overview and scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within its terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Head of Paid Service, any Director, Head of Service and/or any other appropriate senior officer to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision, future decision as set out in the Forward Plan or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance.

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

- (b) Where any member or officer is required to attend an overview and scrutiny committee under this provision, the Chair of that committee will inform Statutory Scrutiny Officer. The Statutory Scrutiny Officer shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

15. Attendance by others

An overview and scrutiny committee may invite people other than those people referred to in Rule 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

16. Call-in

- (a) Subject to Rule 16(k) when a decision is made by the Executive (including by the Executive meeting in public) an individual member of the Executive, a committee of the Executive, or under joint arrangements, or a key decision is made by an officer with delegated authority from the Executive, the decision notice shall be published, including where

possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. Copies of all such decision notices will be sent to all members of the relevant Overview and Scrutiny Committee within the same timescale, by the person responsible for publishing the decision.

- (b) Decision notices will bear the date on which they are published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless called in accordance with the following procedure.

Call-in Procedure

- (c) During the period of 5 working days from the publication of a decision notice, a request to call in the decision may be initiated in writing by the Chair or, in his/her absence, the Vice Chair of the Scrutiny Committee. The Chair, or where appropriate, the Vice-Chair of the Scrutiny Committee can be requested to exercise the right to call in a decision by any 3 Overview and Scrutiny Members.

Call-in should only be used in exceptional circumstances where Members have evidence which suggests that a decision was taken where:

- (a) inaccurate information of a substantial nature was given to the decision taker;
- (b) inadequate consultation was carried out;
- (c) alternative options were not given sufficient consideration or were inadequately appraised; or
- (d) insufficient information was available

and

a decision may only be called in if the Chair, or Vice-Chair as appropriate, of the Scrutiny Committee accepts that any of the above criteria are met in relation to a decision.

During that 5 working day period, the Chief Executive shall call-in a decision for scrutiny by the committee if so requested by the Chair or, where appropriate, the Vice-Chair of the Scrutiny Committee, and shall then notify the decision-taker of the call-in. (S)he shall call a meeting of the scrutiny committee to meet on such date as (s)he may determine, where possible after consultation with the Chair of the committee, and in any case within 7 working days of the request to call-in being agreed.

- (d) If, having considered the decision, the scrutiny committee is still concerned about it, then it may refer it back to the decision maker for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. Matters should only be referred to full Council if the overview and scrutiny committee consider the decision to be contrary to the policy framework or contrary or not wholly in accordance with the budget.

If the matter is referred to full Council the Chief Executive shall call a meeting of full Council to meet on such date as (s)he may determine, where possible after consultation with the Chair of Council, and in any case within 7 working days of the referral by the scrutiny committee. If an ordinary meeting of the Council is due to take place within a reasonable period after the date of the referral of the scrutiny committee, the 7 day period can be varied with the agreement of the Leader of the Council, the Chair of the relevant overview and scrutiny committee and the Chair of the Council.

- (e) If referred to the decision maker they shall then reconsider within a further 5 working days, amending the decision or not, before adopting a final decision. If the decision maker is an individual and is unavailable during this period the decision shall be reconsidered by the Executive.
- (g) If, following the call-in of a decision, the scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body or to full Council, the decision will become effective on the date of the scrutiny committee meeting, or on the expiry of the period in which the overview and scrutiny committee meeting should have been held, whichever is the earlier.
- (h) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it cannot make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker together with the Council's views on the decision. The decision maker shall then reconsider the decision as set out in paragraph (f) above.
- (i) If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

EXCEPTIONS

CALL-IN AND URGENCY

- (k) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent or if the decision is a recommendation of the Executive to be referred to full Council for approval. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. Examples of circumstances which would be deemed urgent include:

- the likelihood of material financial loss
- the risk of incurring legal liability or delay in taking legal action
- the need to comply with statutory or other legal requirements
- to prevent or reduce the risk of damage to person or property

(Please note that the above are by way of illustration only and are not a definitive list)

The decision notice shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. Any written report considered by the decision making person or body shall specify the nature of any urgency.

- (l) When a decision deemed to be urgent by the decision maker is being published, the Chair and Vice-Chair of the Scrutiny Committee shall be notified that an urgent decision has been taken.
- (m) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary. However, if at any time, the Scrutiny Committee determine that these provisions are not being used appropriately it may after discussing the matter with the Leader and the Monitoring Officer, make a report to the next ordinary meeting with recommendations.

17. The party whip

- (a) The “party whip” means any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner.
- (b) When considering any matter in respect of which a member of an overview and scrutiny committee is subject to a party whip, the member must declare the existence of the whip, and its nature 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.

18. Procedure at overview and scrutiny committee meetings

- (a) Overview and scrutiny committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the committee for a decision in relation to the call-in of a decision;

- (iv) responses of the Executive to reports of the overview and scrutiny committee; and
 - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the overview and scrutiny committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee shall prepare or approve a report, for submission to the Executive and/or Council as appropriate.

19. Matters within the remit of more than one overview and scrutiny committee

Where a matter for consideration by an overview and scrutiny committee falls within the remit of one or more other overview and scrutiny committee, the decision as to which overview and scrutiny committee will consider it will be resolved by discussion by the Chairs of the Scrutiny Committee and the Health Scrutiny Committee.

20. Proper Officer

The Proper Officer for the purpose of this Rule is the Corporate Director of Governance and Community Strategy.

TABLE 1:

MEMBERSHIP AND TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY COMMITTEES

SCRUTINY COMMITTEE

Terms of Reference

1. To act as the Council's Overview and Scrutiny Committee and Crime and Disorder Committee for the purposes of all relevant legislation including, but not limited to, the Local Government Act 2000 (as amended), and Police and Justice Act 2006.

General Role

2. Subject to statutory provision, to review and scrutinise decisions made or actions taken in connection with the discharge by the Council of its functions and by relevant partner authorities.
3. In relation to the above functions:
 - a) to make reports and/or recommendations to the full Council, Executive of the Council, any joint committee or any relevant partner authority as appropriate
 - b) to consider any matter affecting the area or its inhabitants
4. In relation to any function within the remit of this Committee:-
 - a) as set out in (b) below to exercise the power to call in, for reconsideration, executive decisions made but not yet implemented set out in Section 21(3) of the Local Government Act 2000.
 - b) The call-in of an executive decision is to be exercised as follows:-
 - i) the decision must not have been designated as urgent by the decision taker
 - ii) the request to call in a decision must be made within 5 working days of the decision being published
 - iii) any 3 members of an overview and scrutiny committee or select committee can ask the Chair of this Committee or, in his/her absence, the Vice-Chair to call in an executive decision
 - iv) in deciding whether or not to approve the request to call in a decision, the Chair or Vice-Chair may consult the Vice-Chair and the chairs of the Select Committees as appropriate

- v) if the Chair, or Vice-Chair as appropriate, approve the call in of a decision the request to call in the decision must be made to the Chief Executive within the timescale set out in (ii) above
 - vi) the Chair may decide, after consulting as appropriate, to call in a decision whether or not a request under (iii) has been received.
- 5. To put in place and maintain a system to ensure that referrals from overview and scrutiny to the Executive, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in the Constitution.
- 6. At the request of the Executive, to make decisions about the priority of referrals made in the event of reports to the Executive exceeding limits in the Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.
- 7. To report annually to full Council on its workings, set out their plans for future work programmes and amended working methods if appropriate.

Specific functions

- 8. Maintain a strategic overview of progress towards the achievement of the ambitions and priorities within Trafford's Sustainable Community Strategy.
- 9. Identify the Committee's strategic priorities and determine the Overview and Scrutiny work programme to facilitate constructive evidence based critical-friend challenge to policy makers and service providers within the resources available.
- 10. Assist and advise the Council in the continued development of the Overview and Scrutiny function within Trafford.
- 11. Receive, consider and action as appropriate requests:
 - a) from the Executive in relation to particular issues; and
 - b) on any matters properly referred to the Committee
- 12. Identify areas requiring in-depth review and allocate these to an appropriate Topic Group. The Committee in consultation with the leader of the relevant Topic Group will set the terms of reference, scope and time frame for the review by the Topic Group.
- 13. In relation to the terms of reference of the Committee it may:
 - a) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - b) review and scrutinise the decisions made by and performance of the Executive and/or committees and Council officers both in relation to individual decisions and over time;

- c) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- d) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance;
- e) conduct research, community and other consultation as it deems appropriate in the analysis of policy issues and possible options;
- f) question and gather evidence from any other person with their consent.
- g) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- h) question members of the Executive and/or committees, senior officers of the Council and representatives of relevant partner authorities on relevant issues and proposals affecting the area and about decisions and performance;
- i) 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; and
- j) undertake any other activity that assists the Committee in carrying out its functions.

Delegation

14. The Scrutiny Committee shall have all delegated power to exercise the power and duties assigned to them in their terms of reference.

HEALTH SCRUTINY COMMITTEE

Terms of Reference

1. To act as the Council's Overview and Scrutiny Committee for the purposes of all relevant legislation including, but not limited to the Health and Social Care Act 2001 and the National Health Service Act 2006.
2. All health scrutiny powers provided under the Health and Social Care Act 2001 are delegated to the Health Scrutiny Committee.
3. The Health Scrutiny Committee will have the power to refer a proposed substantial variation in service delivery to the Secretary of State. If the Committee wish to exercise this power, then this must also be agreed by the Chair of the Scrutiny Committee who will be an ex-officio member of the Health Committee and will hold the power of veto in respect of any proposed referral of a substantial variation to the Secretary of State.

General Role

4. Subject to statutory provision, to review and scrutinise decisions made or actions taken in connection with the discharge by the Council of its functions and by relevant partner authorities in relation to health and well-being issues.
5. In relation to the above functions:
 - a) to make reports and/or recommendations to the full Council, Executive of the Council, any joint committee or any relevant partner authority as appropriate
 - b) to consider any matter affecting the area or its inhabitants
6. To put in place and maintain a system to ensure that referrals from the Health Scrutiny Committee to the Executive, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in the Constitution.
7. At the request of the Executive, to make decisions about the priority of referrals made in the event of reports to the Executive exceeding limits in the Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.
8. To report annually to full Council on its workings, set out their plans for future work programmes and amended working methods if appropriate.

Specific functions

9. Maintain a strategic overview of progress towards the achievement of the ambitions and priorities within Trafford's Sustainable Community Strategy in relation to health and well-being matters.

10. Identify the Committee's strategic priorities and determine the Overview and Scrutiny work programme to facilitate constructive evidence based critical-friend challenge to policy makers and service providers within the resources available.
11. Assist and advise the Council in the continued development of the Overview and Scrutiny function within Trafford.
12. Receive, consider and action as appropriate requests:
 - a) from the Executive in relation to particular issues; and
 - b) on any matters properly referred to the Committee
13. Identify areas requiring in-depth review and allocate these to an appropriate Topic Group. The Committee in consultation with the leader of the relevant Topic Group will set the terms of reference, scope and time frame for the review by the Topic Group.
14. In relation to the terms of reference of the Committee it may:
 - a) assist the Council, Executive and shadow Health and Well-being Board in the development of its budget and policy framework by in-depth analysis of policy issues;
 - b) review and scrutinise the decisions made by and performance of the Executive and/or committees and Council officers both in relation to individual decisions and over time;
 - c) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - d) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance;
 - e) conduct research, community and other consultation as it deems appropriate in the analysis of policy issues and possible options;
 - f) question and gather evidence from any other person with their consent.
 - g) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - h) question members of the Executive and/or committees, senior officers of the Council and representatives of relevant partner authorities on relevant issues and proposals affecting the area and about decisions and performance;

- i) 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; and
- j) undertake any other activity that assists the Committee in carrying out its functions.

Delegation

15. The Health Scrutiny Committee shall have all delegated power to exercise the power and duties assigned to them in their terms of reference.

2. CHILDREN AND YOUNG PEOPLE'S SCRUTINY COMMITTEE

Terms of Reference

1. The Committee will be responsible for the review and scrutiny of decisions made or actions taken in connection with the provision, planning and management of education in the borough of Trafford and, in particular, all of the functions of the Council as an education authority under the Education Acts, School Standards and Framework Act 1998 and all other relevant legislation in force from time to time. Co-opted Members will be appointed to discuss education matters and will attend the Scrutiny Committee when they consider education matters.
2. To review and scrutinise decisions made or actions taken in connection with:
 - (a) the provision, planning and management of children's and young people's services and community lifelong learning in the borough of Trafford;
 - (b) all functions of the council insofar as they relate to the provision of opportunities for education, training and learning outside the school environment, including pre-school, adult and community learning.
3. The development of the council's LEA Strategic Plan (incorporating the Education Development Plan) and the Early Years Development Plan.

General Role

4. Subject to statutory provision, to review and scrutinise decisions made or actions taken in connection with the discharge by the Council of its functions and by relevant partner authorities.
5. In relation to the above functions:
 - (a) to make reports and/or recommendations to the full Council, Executive of the Council, any joint committee or any relevant partner authority as appropriate.
 - (b) to consider any matter affecting the area or its inhabitants.
6. To put in place and maintain a system to ensure that referrals from the Children and Young People's Scrutiny Committee to the Executive, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in the Constitution.
7. At the request of the Executive, to make decisions about the priority of referrals made in the event of reports to the Executive exceeding limits in the Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.
8. To report annually to full Council on its workings, set out their plans for future work programmes and amended working methods if appropriate.

Specific functions

9. Identify the Committee's strategic priorities and determine the Overview and Scrutiny work programme to facilitate constructive evidence based critical-friend challenge to policy makers and service providers within the resources available.
10. Assist and advise the Council in the continued development of the Overview and Scrutiny function within Trafford.
11. Receive, consider and action as appropriate requests:
 - (a) from the Executive in relation to particular issues; and
 - (b) on any matters properly referred to the Committee.
12. Identify areas requiring in-depth review and allocate these to an appropriate Topic Group. The Committee in consultation with the leader of the relevant Topic Group will set the terms of reference, scope and time frame for the review by the Topic Group.
13. In relation to the terms of reference of the Committee it may:
 - (a) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (b) review and scrutinise the decisions made by and performance of the Executive and/or committees and Council officers both in relation to individual decisions and over time;
 - (c) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (d) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance;
 - (e) conduct research, community and other consultation as it deems appropriate in the analysis of policy issues and possible options;
 - (f) question and gather evidence from any other person with their consent.
 - (g) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (h) question members of the Executive and/or committees, senior officers of the Council and representatives of relevant partner authorities on relevant issues and proposals affecting the area and about decisions and performance;

- (i) 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; and
- (j) undertake any other activity that assists the Committee in carrying out its functions.

Delegation

The Children and Young People's Scrutiny Committee shall have all delegated power to exercise the power and duties assigned to them in their terms of reference.

FINANCIAL PROCEDURE RULES

The Council's Financial Procedure Rules should be read in conjunction with other regulations and guidance published by the council, including, but not limited to, the Constitution. Specific reference is made to the Scheme of Delegation to Officers which specifies the relative roles and responsibilities of key officers.

The Corporate Directors of each Directorate are responsible for ensuring that all staff are aware of the existence and content of such documents and for compliance with them.

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Date of Approval

1 INTRODUCTION

- 1.1 These Financial Procedure Rules are a written code of procedures approved by Trafford Borough Council (the Council) to provide a framework for proper financial management. The Financial Procedure Rules form part of the Council's Constitution and set out rules on accounting, audit, administrative procedures and budgeting systems. Importantly, they will be continuously updated and refined in the context of the Council's changing structure and methods of operating.
- 1.2 To conduct its business efficiently, the Council needs to ensure that it has sound financial management policies in place and that they are strictly adhered to. Part of this process involves the establishment of Financial Regulations that set out the Council's financial policies.
- 1.3 All decisions which have financial implications must have regard to proper financial control and value for money. If there is any doubt as to whether a financial proposal is appropriate, or whether a financial action is correct, this must be clarified with the Corporate Director of Finance and Systems in sufficient time to allow for appropriate consideration in advance of the decision or action being taken.
- 1.4 Failure to follow Financial Procedure Rules or financial instructions issued by the Corporate Director of Finance and Systems under Financial Procedure Rules may result in action under the Council's disciplinary procedures.
- 1.5 The Council's governance structure is laid down in its Constitution, which sets out how the Council operates, how decisions are made and the procedures that are to be followed.
- 1.6 As part of authorities' governance arrangements, there is a statutory requirement for each Council to appoint an officer to be responsible for its financial affairs. For Trafford Council this officer is the Corporate Director of Finance and Systems.
- 1.7 These Financial Procedure Rules must be followed by all officers of the Council, in conjunction with the Council's Constitution and the Accounts and Audit Regulations. All financial arrangements should also comply with current relevant statutory requirements and European legislation.
- 1.8 These Financial Procedure Rules do not apply to schools. Financial Procedure Rules for Schools are detailed in a separate document which has been provided to all maintained schools.
- 1.9 In line with the CIPFA Good Practice guidance, each section of the Financial Procedure Rules follows the format set out below:
 - Why is this important?
 - Financial Procedure Rules (FPR)
 - Responsibilities of the Corporate Director of Finance and Systems
 - Responsibilities of Management

2 STATUS OF FINANCIAL PROCEDURE RULES

- 2.1 Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and anyone acting on its behalf.
- 2.2 The Financial Procedure Rules identify financial responsibilities of individuals including; Executive Members, Council Members, Officers, the Chief Executive, the Corporate Director of Governance and Community Strategy, the Corporate Director of Finance and Systems, other Directors and Budget Holders. Any delegation of the financial responsibilities described in these Financial Procedure Rules must be recorded in writing.
- 2.3 Where such responsibilities are delegated, the officer to whom the responsibilities have been delegated must provide sufficient information to the Executive Member or relevant Director on request, in order to give assurance that all responsibilities and decisions have been performed in accordance with these Financial Procedure Rules. Where decisions have been delegated or devolved to other responsible officers, references to the relevant Member or Officer in the Rules should be read as referring to them.
- 2.4 All Members and Officers of the Council have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, and provides value for money.
- 2.5 The Corporate Director of Finance and Systems is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the full Council for approval. The Corporate Director of Finance and Systems is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or to the Executive Members. The Corporate Director of Finance and Systems shall be authorised to temporarily suspend application of the Financial Procedure Rules in exceptional circumstances.
- 2.6 The Corporate Director of Finance and Systems is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Members, Officers and others acting on behalf of the Council are required to follow.
- 2.7 Any person charged with the use or care of the Council's resources and assets should inform themselves of the Council's requirements under Financial Procedure Rules, with any queries being referred to the Corporate Director of Finance and Systems.
- 2.8 All Corporate Directors should ensure that any financial procedures/guidelines produced by their departments in support of financial control are fully compliant with the Financial Procedure Rules and the agreement of the Corporate Director of Finance and Systems should be obtained where such financial procedures are developed.
- 2.9 The word 'should' in the Financial Procedure Rules implies a duty or obligation to act in the way outlined.
- 2.10 Any proposals for changes or amendments to the Financial Procedure Rules must be forwarded to the Corporate Director of Finance and Systems for consideration.

- 2.11 All Council employees must report to their manager, supervisor or other responsible senior officer, any illegality, impropriety, breach of procedure or serious deficiency discovered in the following of financial procedures. Managers must notify immediately and confidentially the Corporate Director of Finance and Systems, or if not appropriate the Chief Executive or Corporate Director of Governance and Community Strategy (the Monitoring Officer), where it appears that such a breach has occurred.

3 GENERAL RESPONSIBILITIES OF THE CORPORATE DIRECTOR OF FINANCE AND SYSTEMS

- 3.1 Subject to the overall control of the Council and the Executive on matters of policy, the Corporate Director of Finance and Systems is responsible for the proper administration of the Council's financial affairs through:
- (i) advising the full Council, Executive and all Committees and officers on accounting and financial matters;
 - (ii) supervising the arrangements for the receipt of monies due to the Council, payment of monies due from the Council, and the Council's treasury management and insurances;
 - (iii) the format and preparation of the annual estimates and the presentation of these to the Executive and the Council, ensuring that a balanced, robust and sustainable budget has been set;
 - (iv) the preparation and presentation of the statement of accounts of the Council;
 - (v) the operation of bank accounts.
- 3.2 The Corporate Director of Finance and Systems is responsible for approving and controlling all accounting and financial systems in all departments of the Council, including the form of any documents and records used.
- 3.3 All Directors must notify the Corporate Director of Finance and Systems as soon as possible of any matter within their area of responsibility which may affect the financial position of the Council.
- 3.4 When any changes in service are contemplated, a report must be prepared, in conjunction with the Corporate Director of Finance and Systems, containing financial appraisals prior to submission to the Executive.
- 3.5 The Corporate Director of Finance and Systems is responsible for ensuring that there is an effective Financial Scheme of Delegation and that this scheme is followed in practice within Trafford.
- 3.6 Only the Corporate Director of Finance and Systems, or Officers specifically nominated and authorised by the Corporate Director of Finance and Systems, are to undertake the general responsibilities outlined in this section. It is contrary to the Financial Procedure Rules for any other officer to assume or to allow others to believe that they have assumed these responsibilities.

FPR1 BUSINESS AND FINANCIAL PLANNING

The Council's and Executive's responsibilities in respect of budget and policy are set out in the 'Budget and Policy Framework Procedure Rules' contained in the Council's Constitution.

Why is this Important?

Planning is a dynamic and continuous process and is a fundamental tool in the management and control of the organisation. Financial planning is a key part of this process, setting out the financial consequences of the actions planned to meet the objectives and targets set within the plan.

The financial plans do not stand in isolation, and in essence are the evaluation of major strategic plans of the Council, which must be developed within the framework of the budget and the Corporate Plan. This will be a two-way process with the development of these specific plans influencing the development of the budgets and Corporate Plan, and vice versa. This evaluation is critical to the organisation, as the availability of finance is often the critical factor in determining the pace of development towards key objectives.

Budgeting

Why is this Important?

The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a Council to budget for a deficit.

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. As capital expenditure can involve very large sums of money it is important that capital projects are carefully appraised and managed to ensure that the project objectives are delivered.

The Local Government Act 2003 established a system for capital financing based on a prudential framework. Local authorities have the freedom to borrow funds to finance their capital programmes, without Government consent, subject to local authorities ensuring that their plans are affordable, prudent, sustainable and based upon sound treasury management. Capital expenditure should form an essential part of the Council's asset management strategy and should be carefully prioritised in line with Council policy in order to maximise the benefit of scarce resources.

As set out in the 'Budget and Policy Framework Procedure Rules', each year, the Executive must submit its revenue and capital estimates of expenditure and income to the Annual Budget Meeting of the Council.

The rules for revenue and capital budgets are:

- 1.1 Budget Holders are defined as the Chief Executive, Corporate Directors, Directors, Heads of Service and Strategic Leads, together with any other Officer with the relevant delegated authority to control and monitor budgets. Budget Holders must be consulted in the preparation of the budgets for which they are responsible and accountable for;
- 1.2 Budget Holders are responsible for the day to day control of income and expenditure against a set budget for a cost centre, or group of cost centres that make up the area for which they have operational responsibility;
- 1.3 as part of the monitoring process, Budget Holders must review regularly the effectiveness and operation of revenue budget preparation and ensure that any corrective action is taken;
- 1.4 under the Local Government Act 2003, the Corporate Director of Finance and Systems is required to prepare a report, for use when the Council is deciding its annual budget and council tax, on the robustness of the budget and the adequacy of the Council's reserves. The Government has a back-up power to impose a minimum level of reserves on a Council that it considers to be making inadequate provisions;
- 1.5 each year the Corporate Director of Finance and Systems, in consultation with Directors and Heads of Service, will roll forward the Capital Investment Programme. The Executive shall consider all proposals for capital spending against available resources. The Capital Investment Programme is approved annually in February by the Council. Any increase to the total approved budget must be agreed by the Full Council, unless the increase is financed from external resources;
- 1.6 any new proposals involving capital investment need to be evaluated and are subject to the prioritisation and appraisal process as referred to in the Council's Capital Strategy before being considered for inclusion in the Programme;
- 1.7 if the acceptable tender amount is below the approved estimate, no works other than those included in the tender will be included without the express approval of the Corporate Director of Finance and Systems;
- 1.8 the Council's de-minimis level for any single item of capital expenditure is £10,000. Anything below this should be treated as revenue expenditure. Exceptions to this level will be made for items of capital expenditure that are financed by specific grant.

FPR2 MAINTENANCE OF RESERVES

Why is this Important?

Every authority must decide upon the level of general reserves (balances) it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained. When a Council is deciding its annual budget and council tax level it is required by statute to take into account a report from the Corporate Director of Finance and Systems on the adequacy of the Council's reserves and robustness of the budget. The Government has a reserve power to impose a minimum level of reserves on a Council that it considers to be making inadequate provisions.

The rules for Maintenance of Reserves are:

- 2.1 the Council must establish and maintain reserves in accordance with the Local Government Act 2003, the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC) and agreed accounting policies;
- 2.2 requests for reserves and provisions must be submitted by Directors to the Corporate Director of Finance and Systems for approval. This does not apply to underspend amounts required to be carried forward in accordance with the Medium Term Financial Plan (MTFP);
- 2.3 for each reserve established, the purpose, usage and basis of transactions must be clearly identified;
- 2.4 when requested and in any event, always at the financial year end, the Directors shall provide the Corporate Director of Finance and Systems with a statement of reserve balances held and movements therein.

FPR3 BUDGET MANAGEMENT

Budgetary Control & Monitoring

Why is this Important?

Budgetary control and monitoring ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity, enabling remedial action to be taken, where necessary. The Council itself operates within an annual budget allocation, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure and income within the budget allocated to it (i.e. controllable budget).

For the purposes of budgetary control by Budget Holders, a budget will normally be split into controllable and non-controllable for a service area or cost centre, with the service managers being held accountable for the controllable elements of the budget.

Budgetary Control & Monitoring rules

Procedure rules for managing and controlling the revenue budget are:

- 3.1 the responsibility of the Council for budget monitoring and control, under the Local Government Act 2003 is acknowledged;
- 3.2 every budget should have an appointed Budget Holder – ideally only one;
- 3.3 Budget Holders shall be accountable for the budgets under their control;
- 3.4 Budget Holders must accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
- 3.5 Budget Holders will follow an approved certification process for all expenditure;
- 3.6 Budget Holders shall ensure that income and expenditure must be properly recorded and accounted for;
- 3.7 Budget Holders shall ensure that performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget;
- 3.8 the Corporate Director of Finance and Systems in consultation with the Executive Member for Finance shall establish an appropriate format and frequency for monitoring the Council's financial performance in compliance with regulations and best practice.

- 3.9 Budget Holders may not incur any expenditure in excess of budget (taken as an aggregate amount across all areas of the revenue budget in their control, after correct and proper accounting adjustments) without a robust plan to recover such overspending (or under achievement of income) over the following accounting period. Any expenditure in excess of the budget must be specified in the appropriate financial reports as determined by the Corporate Director of Finance and Systems in consultation with the Executive Member for Finance.

Procedure rules for managing and controlling the capital budget are:

- 3.10 each capital scheme must have a named Budget Holder who is accountable for it;
- 3.11 the accountable named officer must advise the Corporate Director of Finance and Systems as soon as appropriate of all proposed variations to approved budgets;
- 3.12 the accountable named officer must notify the Corporate Director of Finance and Systems:
- if a significant alteration of the nature of works is recommended
 - a significant extension of time is granted or a significant delay has arisen
 - a contractor or other body has submitted a claim which would result in a final account sum of £10,000 or more above the original contract sum
 - the contractor has ceased trading or is in liquidation
- 3.13 Budget Holders are responsible, with the assistance of the Corporate Director of Finance and Systems, to explain any variances of financial performance from gross budgets which are in excess of £100,000 in terms of operational activity;
- 3.14 the Corporate Director of Finance and Systems shall report to the Executive on a ~~quarterly basis detailing progress of capital schemes against approved budget as well~~ as general scheme progress, and include any variations to the overall budget.

FPR4 VIREMENT

Why is this Important?

The scheme of virement is intended to enable the Executive, Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Full Council, and therefore to optimise the use of resources.

Virement rules:

- 4.1 the overall budget is agreed by the Executive and approved by the Council. Budget Holders are therefore authorised to incur expenditure in accordance with the remits of the approved budget. The Financial Procedure Rules below cover virement; that is, the reallocation of financial resources after approval by the Council between approved estimates or heads of expenditure. For the purposes of these Financial Procedure Rules, revenue budget heads are defined by Council, usually listed in the annual budget report as the budget categorised objectively and similarly capital virements are movements between project heads, also defined by the Council and listed in the budget report;
- 4.2 a virement does not create additional overall budget liability. Budget Holders are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Budget Holders must plan to fund such commitments from within their own budgets;
- 4.3 Budget Holders shall be subject to the delegated authority, limits and specific procedures for virements specified below:

Virements - Instructions to Budget Holders

A virement is a transfer of funds between cost centres. There are two types: permanent and temporary.

Temporary virements are on a non-recurring basis and permanent virements are recurring year on year, this distinction is important as permanent virements effect planning budgets as well as in year budgets.

For a permanent virement that has a part year effect and to ensure that the planning budget (2) is accurate, the whole of the permanent virement must be input in plans V1 and 2 and then plan V1 amended by a temporary virement for the part of year.

Printouts from the financial system, from before and after the transaction, must be held with the virement form and kept on record for inspection and audit trail purposes.

Virements must not be used to move centrally apportioned budgets (non-controllable recharges) as required under Service Accounting Code of Practice (SERCOP) to directly controllable budgets and vice versa;

Authorisation of virements must adhere to the following rules:

VIREMENT TYPE	MAXIMUM DELEGATED LIMIT	AUTHORISER
Level 1 Virement - Movements within a cost centre.	Any	Budget Holder.
Level 2 Virement Between cost centres, but within the same Budget Head as categorised objectively.	Any	All respective Executive portfolio holders, Chief Executive, Deputy Chief Executive, Executive Directors, Directors, Strategic Leads and Heads of Service.
Level 3 Virement - Between Budget Head as categorised objectively.	up to £500k	(Revenue) All respective Executive portfolio holders, Chief Executive, Deputy Chief Executive, Executive Directors, Directors. (Capital) Corporate Director of Finance and Systems if expenditure is supported by Grant, Developer Contribution or capital receipt

<p>Level 4 Virement - Between Budget Head as categorised objectively.</p>	<p>Between £500k and £1,500k if no change to net budget.</p> <p>Over £1,500k if no change to net budget.</p>	<p>(Revenue) Corporate Director of Finance and Systems in consultation with Executive Portfolio holder.</p> <p>(Capital) – Corporate Director of Finance and Systems in consultation with Executive Portfolio holder if expenditure is supported by Grant, Developer Contribution or capital receipt.</p> <p>(Revenue) Corporate Director of Finance and Systems in consultation with the Leader of the Council, Deputy Leader and Executive Portfolio holder.</p> <p>(Capital) – Corporate Director of Finance and Systems in consultation with the Leader of the Council, Deputy Leader and Executive Portfolio holder if expenditure is supported by Grant, Developer Contribution or capital</p>
<p>Level 5 Virement - Between Budget Head as categorised objectively.</p>	<p>Any if it results in a change to net budget.</p>	<p>(Revenue) Council</p> <p>(Capital) – Council for any new capital expenditure supported by borrowing or discretionary resources.</p>

FPR5 ACCOUNTING

Why is this important?

Secure and reliable records and systems are important so we can:

- *process and record financial transactions and information;*
- *support how we use public money; and*
- *meet regulations and best practice.*

Accounting rules

The Corporate Director of Finance and Systems shall:

- 5.1 determine accounting systems and procedures and the form of financial records;
- 5.2 provide guidance and advice on all accounting matters;
- 5.3 monitor accounting performance to ensure an adequate standard for all services;
- 5.4 certify financial returns, grant claims and other periodic financial reports required of the Council;
- 5.5 approve grant bids and any financial arrangement which could impose a financial liability on the Council including lease arrangements.

Directors shall:

- 5.6 adhere to accounting procedures and adopt the form of financial records and statements as determined by the Corporate Director of Finance and Systems;
- 5.7 complete and pass to the Corporate Director of Finance and Systems financial returns and other financial reports requiring certification;
- 5.8 maintain an effective and appropriate control environment for staff with finance responsibilities as advised by the Corporate Director of Finance and Systems;
- 5.9 report changes to operational procedures or circumstances which affects the control environment to the Corporate Director of Finance and Systems.

FPR6 FINAL ACCOUNTS

Why is this Important?

The Council is required to:

- (a) Make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of those affairs. For the Council, that officer is the Corporate Director of Finance and Systems;*
- (b) Manage its affairs to secure economic, efficient and effective use of resources and safeguard its assets;*
- (c) Prepare and approve the statement of accounts in accordance with proper accounting practices.*

The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Accounts & Audit Committee is responsible for approving the statutory annual statement of accounts.

Requirements for Final Accounts

Annual statement of accounts:

- 6.1 the Corporate Director of Finance and Systems shall make arrangements for the proper administration of the Council's financial affairs and the Council shall secure that one of its officers (the Corporate Director of Finance and Systems) has the responsibility for the administration of these affairs;
- 6.2 the Corporate Director of Finance and Systems in consultation with the Council's Monitoring Officer (Corporate Director of Governance and Community Strategy) shall ensure that the Council complies with relevant financial legislation and best practice which has the weight of law e.g. Accounts and Audit Regulations and CIPFA Codes of Practice, which set out the statutory dates for approval and publication of the annual accounts.

FPR7 VALUE FOR MONEY / EFFICIENCY

Why is this Important?

Public money should be spent with demonstrable probity and in accordance with the Council's Finance Procedure Rules. With limited funding for Council services and service user expectations increasing, it is paramount that the Council looks at ways of providing and demonstrating value for money and efficiency, with authorities having a statutory duty to achieve best value in the use of their resources. The Council's procedures should also help to ensure that services obtain value for money from their procurement and purchasing arrangements.

Rules for securing value for money and efficiency are set out as follows:

- 7.1 Service Reviews should be undertaken by aligning business planning, financial planning and risk management;
- 7.2 the Council's Contract Procedure Rules must be adhered to;
- 7.3 the Council's Procurement Strategy must be taken into consideration, as appropriate;
- 7.4 Internal Audit must assess the adequacy of internal controls as a contribution to the proper, economic, efficient and effective use of resources;
- 7.5 All decisions relating to the disposal of Council assets must be authorised by the Corporate Director of Finance and Systems prior to engaging with interested parties, except for property, when surplus to requirements, which will be included in the Land Sales Programme as approved by the Executive.

FPR8 TREASURY MANAGEMENT

Why is this Important?

Treasury Management is an important part of the overall financial management of the Council's affairs, incorporating the management of the organisations investments and cashflows, bankings, money market and capital market transactions, and the effective control of the risks associated with these activities and the pursuit of optimum performance consistent with those risks.

CIPFA's 'Treasury Management in Public Services: A Code of Practice', governs the appropriate way of administering these funds. These aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum.

The Council is responsible for approving the Treasury Management Policy Statement and annual Treasury Management Strategy, setting out the matters detailed in section 6 of CIPFA's, 'Treasury Management in Public Services: A Code of Practice'. The policy statement and annual Treasury Management Strategy is proposed to the Full Council by the Executive, after prior scrutiny by the Accounts and Audit Committee.

The Local Government Act 2003 established a new system for capital financing having regard for CIPFA's prudential code framework (this framework includes prudential indicators, of which a number relate directly to treasury management). Local Authorities now have the freedom to borrow funds to finance their capital programmes, without Government consent, subject to local authorities ensuring that their plans are affordable, prudent and sustainable and based upon sound treasury management.

Rules for Treasury Management

The Council's borrowings and investments must comply with:

- 8.1 the CIPFA Code of Practice on Treasury Management in Local Government;
- 8.2 the Council's Treasury Policy Statement (including the Treasury Management Practices and Schedules);
- 8.3 the Annual Treasury Management Strategy (including the treasury management prudential indicators).

FPR9 EXTERNAL ARRANGEMENTS

Partnerships

Why is this Important?

Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities frequently work in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

Procedure rules for Partnership arrangements are:

- 9.1 before entering into a partnership it must be ensured that the partnership has appropriate governance arrangements in place;
- 9.2 partners must be aware of their responsibilities under the Council's Financial and Contract Procedure Rules;
- 9.3 risk management processes must be in place to identify and assess all known risks;
- 9.4 project appraisal processes must be in place to assess the viability of the project in terms of resources, staffing and expertise;
- 9.5 the roles and responsibilities of each of the partners involved in the project must be formally agreed and accepted before the project commences;
- 9.6 there must be regular communication with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

FPR10 TRUST FUNDS

Why is this Important?

These sums of money have been donated to the Council and can only be spent for the purpose for which they were given. They do not form part of the Council's accounts.

Rules for Trust Funds

- 10.1 The arrangements for Trust Funds are for the Council to be aware of the specific requirements for which these sums of money have been donated.
- 10.2 The Corporate Director of Finance and Systems will determine the appropriate financial governance arrangements for Trust Funds.

FPR11 EXTERNAL FUNDING

Why is this Important?

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private sector providers. Funds from external agencies such as the National Lottery, and Central Government sources provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

Procedure rules when accounting for External Funding are:

- 11.1 key conditions of funding and any statutory requirements must be complied with and that the responsibilities of the accountable body are clearly understood;
- 11.2 funds shall only be to meet the priorities approved in the policy framework by the Council;
- 11.3 any match-funding requirements must be given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements;
- 11.4 the statutory responsibility to maintain adequate records in relation to all claims must be followed;
- 11.5 other than for property related leases, only the Corporate Director of Finance and Systems and officers delegated by him/her may approve grant bids and any other arrangement which could impose a financial liability on the Council;
- 11.6 all claims for grant (both final and interim) must be certified by the Corporate Director of Finance and Systems.

FPR12 CONTROL OF INCOME

Why is this Important?

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cashflow and also avoids the time and cost of administering debts.

Income raised through levying fees and charges is a significant proportion of the Council's overall income budget and as well as its power to target subsidy and raise resources, fees and charges have the power to affect the way that services are delivered. It can facilitate or deny access to services, change resident and user behaviour, or enable service managers to develop and improve service response to users.

Income Rules

Responsibilities of the Corporate Director of Finance and Systems

- 12.1 to agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection;
- 12.2 to approve the form of all methods of receiving income, whether electronic or manual, and to satisfy himself or herself regarding the arrangements for their control;
- 12.3 to establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly;
- 12.4 to ensure money collected and deposited is reconciled to the bank account on a regular basis;
- 12.5 to ensure adequate arrangements are in place to fully protect the banking data of the council's customers, in particular those standards set out by the Payment Card Industry (PCI);
- 12.6 to agree the write-off of bad debts up to an approved limit as specified in the Officers Scheme of Delegation;
- 12.7 to keep a record of all sums written off up to the approved limit;
- 12.8 to ensure that appropriate accounting adjustments are made following write-off action.

Responsibility of each Director of Service

Each Director of Service within their own department shall make and maintain adequate arrangements to ensure:

- 12.9 all income due to the Council is identified and charged correctly, in accordance with an approved departmental charging policy. The charging policy should include the appropriate charging of VAT, and reviewed annually, in line with corporate policies;

- 12.10 all income shall be collected from the correct person, promptly, using the correct procedures and the appropriate stationery/systems as approved by the Corporate Director of Finance and Systems;
- 12.11 wherever possible/practical, income should be obtained in advance, or at the time of service provision. Where credit is given, Directors must ensure that the credit status of each customer is satisfactory. Directors are responsible for issuing debtor accounts in a form approved by the Corporate Director of Finance and Systems immediately a debt falls due. Each Director, in conjunction with the Corporate Director of Finance and Systems must maintain adequate records to ensure that all credit income due to the Council is promptly recovered.
- 12.12 appropriate staff are identified to act as accountable officers to be custodians of money collected on behalf of the Council and ensure that:
- all money received by an employee shall be banked without delay (by deposit directly into the Council's bank account or given to an approved security company appointed by the Council) and properly recorded;
 - the responsibility for cash collection should be separated from the reconciliation of the amount due to the amount received;
 - details entered on the pay-in-slip and duplicate or counterfoil should include, particulars of such payment, including in the case of each cheque paid in, the amount of the cheque, the invoice number if one exists or relevant reference number;
 - an official receipt is issued promptly and other documentation maintained for income collection where appropriate;
 - all income is banked intact and without deductions of any kind;
 - Income is not used to cash personal or other cheques.
 - staff lock away all income to safeguard it against loss or theft;
 - where amounts in hand exceed the insurance limit, they shall be banked forthwith using the Council's security services. Directors must ensure by liaison with the Insurance Section, that the insurance limit on their safe is adequate to cover the value of money received and held;
 - income should be checked to the sales records such as till rolls, receipts issued, attendance records;
 - access to cash is restricted to as few staff as practicably possible and suitable handover arrangements are in place where cash is handed over to a second person.

- 12.13 any apparent patterns of cash discrepancies are investigated promptly. Where such discrepancies are in excess of £100 individually, or in total within any period of one month, the Director concerned must immediately investigate and notify the Corporate Director of Finance and Systems who may undertake such investigations as he/she deems appropriate;
- 12.14 effective action must be taken to pursue non-payment within defined timescales;
- 12.15 credit notes may be issued by Managers to correct for errors in raising debt due, and to the extent allowed by Council procedures in other circumstances. They must never be used to write down or write off income that is properly due to the Council. Where the issue of a credit note would reduce income such that it would not cover costs incurred by the Council, the permission of the Corporate Director of Finance and Systems must be sought first;
- 12.16 formal approval for debt write-off is obtained in accordance with the procedures as defined by the Corporate Director of Finance and Systems, and outlined in the Officers Scheme of Delegation in the Council's constitution.
- 12.17 appropriate write-off action is taken within defined timescales. The 'writing off' of a debt does not absolve a Director of the responsibility to collect such debts, and the position in relation to such debtors is to be monitored by the Director;
- 12.18 appropriate accounting adjustments are made following write-off and VAT recovery action;
- 12.19 all appropriate income documents must be retained and stored for the defined period in accordance with the document retention periods;
- 12.20 money collected and deposited is reconciled to the bank account and/or general ledger system by a person who is not involved in the collection or banking process;
- 12.21 all controlled stationery associated with income collection (e.g. receipt books, paying in books etc.) must be held in a controlled environment;
- 12.22 the setting of fees and charges must be in line with legislation, best practice and guidance issued by the Council, Executive or the Corporate Director of Finance and Systems;
- 12.23 to the maximum extent possible income is collected by electronic means. This means that positive action should be taken to promote the use of customer payment by direct debit, card payments via the web, at the point of order for one-off items, and continuous debit arrangements for ongoing services provision;
- 12.24 full compliance with all practices necessary to fully protect the banking data of the council's customers, in particular those standards set out by the Payment Card Industry (PCI).

FPR13 INTERNAL AUDIT

Why is this Important?

The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015, more specifically require that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.

Accordingly, internal audit is an assurance function that provides an independent and objective opinion to the organisation on the control environment by evaluating its effectiveness in achieving the organisations objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources. Internal Audit’s remit includes:

- (a) assessing if operations are being carried out as planned, and if objectives/goals are being achieved;*
- (b) assessing the adequacy of systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by the management of the organisation or externally;*
- (c) assessing the completeness, reliability and integrity of information, both financial and operational;*
- (d) assessing the extent to which the council’s assets, data and interests are properly accounted for and safeguarded from losses of all kinds, including fraud, corruption, waste, extravagance, abuse, ineffective management and poor value for money;*
- (e) assessing the economy, efficiency and effectiveness with which resources are deployed.*

Internal Audit Rules

Requirements are:

- 13.1 that it is independent in its planning and operation;
- 13.2 the Audit and Assurance Manager must have direct access to, and freedom to report in his/her own name and without fear or favour to, the Chief Executive, all levels of management and directly to elected Members;
- 13.3 the Audit and Assurance Manager or his/her authorised representative has authority to access all the Authority’s establishments or operating bases, to access all relevant records and is entitled to pursue such enquiries as he/she considers necessary;
- 13.4 all officers, representatives and Members of the Council are required to fully cooperate with Internal Audit at all stages in the conduct of their reviews; to respond to draft Internal Audit reports and to take action to implement agreed Internal Audit recommendations;
- 13.5 the internal auditors must comply with the United Kingdom Public Sector Internal Audit Standards (PSIAS) and associated guidance on PSIAS published by CIPFA.

FPR14 PREVENTING FRAUD AND CORRUPTION

Why is this Important?

The Council will not tolerate fraud, theft, bribery or corruption in the administration of its responsibilities, whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that Members and Officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices and by being aware of their personal role in preventing and detecting fraud, theft, bribery and corruption.

The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers and partners) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud, theft, bribery or corruption.

All senior officers and managers are responsible for ensuring that responsibilities within their service area are clearly identified, for raising awareness to fraud and corruption and for establishing an anti-fraud and corruption culture that is embedded in working practices.

Rules for Preventing Fraud and Corruption are that:

- 14.1 the Council must have in place an effective 'Anti-fraud and Corruption Strategy and Policy' which all Members and officers should adhere to, and maintains a culture that will not tolerate fraud or corruption;
- 14.2 the Council must have a 'Confidential Reporting Code and Policy' that defines whistle blowing procedures and which operates effectively and in accordance with the Public Interest Disclosure Act 1998;
- 14.3 it is the duty of Members and officers who suspect fraud, corruption or irregularity to report it promptly in accordance with the Council's Fraud Response Plan;
- 14.4 all Members and staff must act with integrity and lead by example. All must sign up to and abide by the appropriate Code of Conduct and the ICT Acceptable Use Policy;
- 14.5 all suspicions of fraud, theft, bribery and corruption must be reported promptly in accordance with the Council's Fraud Response Plan. The Audit and Assurance Manager will be informed of such cases, and in accordance with the Fraud Response Plan, liaise with other relevant services to agree the appropriate investigation approach;
- 14.6 in cases of theft, fraud, financial misconduct, serious and intentional breaches of the Financial and Contract Procedure Rules, bribery or corruption committed by employees, the Council will seek disciplinary action for gross misconduct. This includes fraud relating to employment with the Council as well as other forms of engagement e.g. through benefit claims made to the Council by employees or Members.
- 14.7 The Corporate Director of Finance and Systems will determine whether any matter of financial irregularity and/or associated corruption is reported to the Police;

- 14.8 high standards of conduct shall be promoted amongst Members by the Standards Committee;
- 14.9 registers of interests, gifts and hospitality in which any interest or offers of gifts or hospitality are recorded must be maintained by the monitoring officer for Members and officers in accordance with the appropriate Code of Conduct.

FPR15 INVENTORIES

Why is this Important?

The Council holds furniture, fittings, equipment, plant, machinery and other attractive items of significant value. It is important that these assets are safeguarded and used efficiently in service delivery. It is therefore important that these assets are recorded in an inventory in order to verify; location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly.

Rules for Inventories

- 15.1 it is the responsibility of service managers in consultation with the Corporate Director of Finance and Systems to determine whether or not an inventory is to be maintained;
- 15.2 if an inventory is established, managers must ensure that it is properly maintained and regularly checked and missing items reported to the Corporate Director of Finance and Systems.

FPR16 REQUIREMENTS FOR COMPETITIVE QUOTATIONS

Why is this Important?

Public money should be spent with demonstrable probity and in accordance with the Council's Procurement Strategy and Policies. Authorities have a statutory duty to achieve value for money and the Council's procedures should help to ensure that services obtain value for money from their procurement and purchasing arrangements.

Contract procedure rules set out the Council's requirements for obtaining competitive quotations and going out to tender for the procurement of work, goods and services.

Rules for obtaining competitive quotations

- 16.1 The Council's Contract Procedure Rules must be complied with when undertaking procurement of work, goods and services.

FPR17 CONTRACTS

Why is this Important?

Public money should be spent with demonstrable probity and in accordance with the Council's Procurement Strategy and Policies. The Council spends sizable amounts of public money on contracts, therefore it is essential that procedures and processes are in place to ensure value for money and fairness, evaluate risk and adhere to all relevant procurement rules.

Contract Procedure Rules deal with arrangements for tendering and the form of contracts.

Rules for entering Contracts

- 17.1** The Council's Contract Procedure Rules must be complied with when entering into contracts for the provision of works, goods and services.

FPR18 ORDERS FOR WORK, GOODS AND SERVICES

Why is this Important?

The Council spends a large amount of public money on the procurement of work, goods and services. It is therefore important that ordering of work, goods and services is strictly regulated to ensure monies are spent prudently and correctly. Cash flow is important to business, particularly small to medium enterprises, and the Council has particular regard to the needs of local business. It is a statutory requirement as well as a Council key performance indicator to pay all undisputed invoices within 30 days, and for additional effort to pay local businesses even sooner. It is therefore imperative that not only are these rules followed, but they are followed quickly and that all records are properly maintained. This need is reinforced by the key objective to provide value for money, correcting and administering systemic error and queries in the payment system rarely adds value, and the need to do it quickly, correctly and first time cannot be understated.

Rules for ordering works, goods and services

18.1 ordinarily the Council will only pay for goods or services, and/or make other payments, in arrears. No officer may undertake a contract or order which would include for a payment in advance without the prior approval of the Corporate Director of Finance and Systems;

Directors shall be responsible for all orders for works, goods and services emanating from their own departments and must ensure:

18.2 controls are in place to ensure orders can only be placed for the procurement of Council works, goods and services;

18.3 procedures laid down in the Council's Purchase to Pay guide are adhered to;

18.4 official orders must be used for requisitioning works, goods and services;

18.5 an official order must be raised using the approved electronic ordering system for the procurement of all work, goods and services, unless specifically exempted by the Corporate Director of Finance and Systems;

18.6 all orders for works, goods and/or services are approved by an authorised officer, in accordance with the Council's Scheme of Delegation;

18.7 adequate budget provision must be available before an official order is raised;

18.8 delivery notes must be obtained when delivery of goods made and goods must be checked promptly for quality/compliance to specifications and checked against the official order and the appropriate system must be correctly and speedily updated within one working day.

FPR19 PAYMENTS FOR WORK, GOODS AND SERVICES

Why is this Important?

The Council spends a large amount of public money on the procurement of work, goods and services. It is therefore important that payment of work, goods and services is strictly regulated to ensure monies are spent prudently and correctly. Payments relating to purchases made through the Council's electronic ordering system are automatically authorised for payment up to the values awarded to the original authorising officer. This section relates to the payment of accounts that have been exempted from the Council's primary ordering system.

Rules for Payment of accounts

Directors shall ensure arrangements are made for the prompt certification and processing of invoices for all works, goods and services for which they are responsible for and must ensure:

- 19.1 that adequate controls are in place to ensure that undisputed payments: are promptly made to the correct supplier; are made for the correct amount; that all purchases are coded correctly both for the finance ledger and any procurement database; and are paid within the relevant time period (i.e. complies with regulation and any internal target);
- 19.2 procedures laid down in the Council's Purchase to Pay guide are adhered to and payments are not made unless goods have been received by the Council at the correct price, quantity and quality standards;
- 19.3 manual invoices must be signed by an authorised officer;
- 19.4 the signing of cheques is subject to the limits set within the Council's banking contract as follows. Individual cheques below £50,000 require one authorised bank signatory, £50,000 or above require two authorised bank signatories;
- 19.5 all expenditure, including VAT, must be accurately recorded against the correct budget.

FPR20 PAYMENTS TO STAFF

Why is this Important?

Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for.

Rules for making payments to staff:

- 20.1 all payments to employees of the Council should be in compliance with the Council's established procedures as advised by the Corporate Director of People;
- 20.2 proper authorisation procedures must be in place and there must be adherence to corporate timetables in relation to:
 - *starters*
 - *leavers*
 - *variations*
 - *enhancements*
- 20.3 frequent reconciliation of payroll expenditure against approved budget and bank account must take place;
- 20.4 all appropriate payroll documents must be retained and stored for the defined period;
- 20.5 HM Revenue and Customs regulations must be complied with;
- 20.6 car mileage and expense re-imburement payments must be paid to employees of the Council in line with Council policy;
- 20.7 a list of authorised signatories together with specimen signatures relative to specific documentation in the payroll system should be retained by payroll service, and Corporate Director of People should ensure this list is regularly reviewed and updated.

FPR21 CUSTODY OF STOCKS AND STORES

Why is this Important?

The Council holds stocks and stores of significant value. It is important that these assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations.

Rules for the security of stocks and stores

Directors shall be responsible for the custody, recording and physical control of stocks and stores held in their department and ensure:

- 21.1 stocks and stores shall be used only for the purposes of the Council and are properly accounted for;
- 21.2 they shall be available for use when required;
- 21.3 stocks and stores no longer required are disposed of in accordance with the regulations of the Council so as to maximise benefits; the writing down or writing off of stock must be done in consultation with the Corporate Director of Finance and Systems;
- 21.4 a stocks and stores inventory is maintained for the Council, which records when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the stocks and stores;
- 21.5 all Officers shall be made aware of their responsibilities with regard to safeguarding the security of the Council's stocks and stores;
- 21.6 Any missing stock or stores are reported immediately to the Corporate Director of Finance and Systems.

FPR22 PETTY CASH AND IMPREST ACCOUNTS

Why is this important?

The Council holds cash sums at various premises in order to allow services operational flexibility needed for minor purchases and reimbursements to staff. It is important that cash is safeguarded and properly recorded and accounted for in order to allow services to operate effectively.

Procedure rules for petty cash and imprest accounts are:

- 22.1 Directors shall be responsible for the safe custody, recording and physical control of petty cash and imprest accounts held in their department. For each cash holding the following roles must be assigned to different Officers: (**“ the Imprest Holder”**) who shall be responsible for physically holding and issuing the cash and maintaining the appropriate records (there can be more than one holder per cash holding for practical purposes but it should be kept to as minimum a number as possible); (**“the manager”** who must be senior to the Imprest Holder and who will be responsible for ensuring that: the rules concerning cash holdings are followed; reconciliations are checked; reimbursements are certified; requests for cash increases are made; and that missing cash is reported;
- 22.2 all requests for imprest account monies must be made to the Corporate Director of Finance and Systems by the Directors concerned. Any subsequent changes to the financial level must be approved by the Corporate Director of Finance and Systems;
- 22.3 the Corporate Director of Finance and Systems must maintain a record of all imprest accounts and the approved current level;
- 22.4 no sums received on behalf of the Council may be paid into an imprest account but shall be banked or paid promptly in accordance with financial procedure rule 12;
- 22.5 payments from imprest accounts shall be limited to minor items, except with prior approval of the Corporate Director of Finance and Systems or authorised officer;
- 22.6 all cash advances and disbursements shall be supported by vouchers and all expenditure by receipts;
- 22.7 the Manager responsible shall regularly check that the level of bank, cash, vouchers and receipts reconcile to the approved level of the petty cash holding; reporting any missing cash to the Corporate Director of Finance and Systems immediately. The regularity of check should be at least monthly for petty cash when the holding should be certified for reimbursement. For disbursements, the regularity and format of check should be balanced against the level of the holding and the frequency of disbursements. Such regularity may be advised by the Corporate Director of Finance and Systems for each such holding.
- 22.8 when requested, but always at the financial year end, the Manager shall provide the Corporate Director of Finance and Systems with certificates of holdings;

- 22.9 reimbursements of petty cash / imprest will only be made upon receipt of relevant documentation and supporting evidence which shall be made to the Corporate Director of Finance and Systems or their authorised Officer;
- 22.10 on leaving the Council's employment or otherwise ceasing to be entitled to hold a petty cash advance, the Holder shall account to the Corporate Director of Finance and Systems for the amount advanced to him or her;
- 22.11 any cash holding can be removed by the Corporate Director of Finance and Systems or authorised Officer at any time.

FPR23 CAPITAL ASSETS

Why is this Important?

The Council holds capital assets in the form of land, buildings, vehicles, equipment, and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

Rules relating to the security of capital assets such as land, buildings, fixed plant machinery, equipment, software and information are:

- 23.1 capital assets must be used only for the purposes of the Council and must be properly accounted for;
- 23.2 capital assets must be available for use when required;
- 23.3 capital assets no longer required must be disposed of in accordance with the Asset Management Plan and Land Sales Programme of the Council so as to maximise benefits;
- 23.4 an asset register must be maintained for the Council, assets must be recorded when they are acquired by the Council and this record is updated as changes occur with respect to the valuation, disposal, location and condition of the asset;
- 23.5 all employees of the Council must be aware of their responsibilities with regard to safeguarding the security of the Council's capital assets.

FPR24 INSURANCE

Why is this Important?

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event.

Insurance is a major element within risk management, enabling risks from adverse events to be mitigated through taking out cover policies. However, these are not without cost, and risk prevention is always preferable to paying higher premiums, where this is possible.

An ex-gratia payment is a payment made to an individual in respect of loss or damage in a situation where the Council accepts no liability for the loss or damage but is willing to make some reimbursement without accepting liability. Most commonly such payments are made to employees in respect of personal property (including clothing or personal items such as spectacles) damaged or lost accidentally. Ex-gratia payments are not made in situations where the loss is fully insured, either by the individual or the Council.

Insurance Rules

The Corporate Director of Finance and Systems shall ensure that:

- 24.1 procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council;
- 24.2 provision is made for losses that might result from the risks that remain;
- 24.3 procedures are in place to investigate claims within required timescales;
- 24.4 acceptable levels of risk are determined and insured against where appropriate;
- 24.5 ex-gratia payments are made in line with Council policy;
- 24.6 a register is maintained of all insurances and the property or risks covered.

Directors shall:

- 24.7 report all instances of possible claims and losses in accordance with timescales and procedures set by the Corporate Director of Finance and Systems;
- 24.8 provide timely information required by the Corporate Director of Finance and Systems or the Council's insurers on any insurance related matters.

FPR25 RISK MANAGEMENT

Why is this Important?

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

It is the overall responsibility of the Executive to promote a culture of risk management awareness throughout the Council. The Council's Risk Management Strategy is approved by the Corporate Leadership Team and Accounts and Audit Committee.

Rules for risk management are:

- 25.1 procedures must be in place to identify, assess, prevent or contain material known risks, and these procedures must be operated effectively throughout the Council;
- 25.2 a monitoring process must be in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process must be conducted on a continuing basis;
- 25.3 managers know that they are responsible for managing relevant risks and must ensure they have all relevant information on risk management initiatives;
- 25.4 risk management reporting should be carried out in accordance with the Council's risk management reporting protocols set out in the Risk Management Strategy;
- 25.5 significant changes in risk management processes or policy should be notified to the Corporate Director of Finance and Systems;
- 25.6 procedures must be in place to investigate claims within required timescales;
- 25.7 the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

FPR26 TAXATION

Why is this Important?

The Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

The Council incurs VAT on a range of goods and services purchased. The Council also charges VAT on some services that it provides and on the sale of certain goods. The Council has a duty to declare these VAT transactions to HM Revenue and Customs (HMRC).

In performing its payroll function, the Council will collect deductions from employees' pay in relation to both PAYE and National Insurance contributions. The Council has a responsibility to pay and provide information on these deductions to HMRC on a timely basis.

The Council may also incur Corporation Tax (and associated forms of taxation) where it operates trading companies. The Council has a responsibility to pay and provide information of such taxation to HMRC on a timely basis.

Procedure rules for Taxation

- 26.1 managers must be provided with relevant information and kept up to date on tax issues;
- 26.2 tax related documentation must be stored and be readily accessible for examination in accordance with the Council's document retention policy and/or as directed by the Corporate Director of Finance and Systems;
- 26.3 all taxable transactions must be identified, properly carried out and accounted for within stipulated timescales;
- 26.4 returns must be made to the appropriate authorities within the stipulated timescale.

FPR27 DOCUMENTATION RETENTION PERIODS

Why this is Important?

The main reason for retaining financial records is to provide evidence that income and expenditure recorded in the Council's financial statements is valid, accurate and complete. This is necessary to satisfy the requirements of internal and external audit enquiries, and also the tax authorities.

Following the Freedom of Information Act 2000, all public bodies (including local authorities) have a statutory duty to provide recorded information within a prescribed timeframe, following a written request. From January 2005 any person who makes a request to the Council must be informed whether the Council holds that information and can be supplied with that information (subject to exemptions). It is therefore important that the Council is able to provide the information requested. This Act has re-emphasised the need for adequate records.

Rules for Retention of documents:

- 27.1 the documentation retention periods must be regularly reviewed;
- 27.2 the documentation retention periods must be agreed with the third parties i.e. internal/external audit, HM Revenue and Customs;
- 27.3 all employees of the Council must be made aware of the document retention periods;
- 27.4 all employees of the Council must be made aware of the requirements placed on the Council in relation to the freedom of information act;
- 27.5 the Council issues employees of the Council guidance in relation to compliance with the freedom of information act;
- 27.6 financial records must not be disposed of other than in accordance with arrangements approved by the Corporate Director of Finance and Systems and under no circumstances prior to the closure of the audit of accounts for the relevant year by the external auditor.

The Council's documentation retention periods for financial records is 6 years plus current, with the exception of schemes supported by European funding which must be retained indefinitely.

DATE OF APPROVAL

These Finance Procedure Rules were approved by Full Council on 24th May 2017 and came into effect on 25th May 2017.

CONTRACT PROCEDURE RULES

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SCHEDULE 1

1. Introduction

- 1.1 Stockport Council, Tameside Council, Trafford Council and Rochdale Council have agreed, through an Inter Authority Agreement (“IAA”) to facilitate the joint delivery of Procurement Functions with a view to the attainment of a more economical, efficient and effective discharge of its Procurement Functions via a shared procurement service to be identified as “STAR”. Each of the STAR members have agreed to establish and participate in a joint committee (the “Joint Committee”) and have agreed to delegate their Executive and Non-Executive functions relating to the operation of STAR to the Joint Committee. Other authorities may, from time to time, join the IAA.
- 1.2 These Rules are standing orders made pursuant to Section 135 of the Local Government Act 1972. Compliance with the Rules and observance of European and domestic law from which they emanate (in particular the principles relating to non-discrimination, equal treatment and transparency) is mandatory for all Officers and Members. The Rules ensure that procurement activity is undertaken in a legally compliant, transparent, fair and competitive manner.
- 1.3 Decisions relating to procurement are among the most important decisions that can be made by the Council its Members and Officers because the money involved is public money and the Council is concerned to ensure that high quality Supplies, Services and the execution of Works are procured. Efficient use of resources in order to achieve Best Value is therefore an imperative.
- 1.4 These Rules shall apply to all procurement activity where the Council is to procure any Supplies, Services or the execution of Works, or enters into a Concessions Contract as either a contracting authority or commissioner of such, regardless of the origin of funding (such as external grants, partnership funding, pooled or joint budgets for example).
- 1.5 For the avoidance of doubt, these Rules shall apply to Framework Agreements, DPS and to any arrangement made by, or on behalf of the Council (including Schools) for the carrying out of Works or for the supply of Supplies or Services.
- 1.6 Where relevant, the Council shall have regard to the Public Services (Social Value) Act 2012 (“the Act”). This requires commissioners and procurers at the pre-procurement stage to consider how what is to be procured may improve social, environmental and economic well-

being of the Council's relevant area, how it might secure any such improvement and to consider the need to consult. The Council and Officers should refer to the Procurement Handbook for further guidance.

- 1.7 The Joint Committee shall monitor compliance with the Rules and undertake an annual review of the Rules. The Joint Committee may present recommendations for amendments to the Rules to the Council from time to time and any such amendments shall be subject to the Council's own ratification procedures. Any failure to comply with any of the provisions of these Rules must be reported immediately to the SRO for Legal. Failure by any Officer or Member to comply with the provisions of these Rules may lead to disciplinary action being taken against them.
- 1.8 These Rules must be read in conjunction with the Council's Constitution and in particular the Financial Procedure Rules/Regulations, , Procurement Handbook, any relevant guidance documents endorsed by the Council and the Council's local Rules as identified in section 1.9 below.
- 1.9 A number of local Rules can be found in the attached Schedule 1 and which form part of these Rules.

Further Information

Further advice can be sought from STAR:

- | | | |
|-------------------|---|---|
| General Enquiries | - | email: procurement@STAR-procurement.gov.uk |
| | | tel: 0161 9121616 |
| Legal Enquiries | - | email: STARlegal@trafford.gov.uk |
| | | tel: 0161 9124229 |

2. Interpretations and Definitions

- 2.1 In the event of any conflict between EU law, English law and these Rules and Council Policy, the requirements of EU law shall prevail over English law and the requirements of English law shall prevail over these Rules and Council Policy.
- 2.2 Any reference to legislation, primary or secondary, shall include any amendments/replacements made from time to time.
- 2.3 All figures specified in these Rules are exclusive of VAT.
- 2.4 In the event of any doubt as to the interpretation of these Rules, or as to proper procedure to be followed, advice should be sought from STAR in the first instance.
- 2.5 In these Rules the words and phrases below have the following meanings:

“APO”	means Authorised Procurement Officer and is the relevant STAR Officer who is responsible for the Supplies, Services, execution of Works or Concessions Contract for which the Specification relates.
“ASO”	means Authorised Service Officer and is any Officer, within a directorate of the Council, who has delegated authority to undertake Procurement Functions.
“Best Value”	has the same meaning as that defined in the Local Government Act 1999 as amended from time to time.
“Bidder”	means any Economic Operator that submits a Quote.
“Call-off”	means an order made/call-off Contract entered into under a Framework Agreement or DPS and are subject to the application of <u>Rule 5.1</u> .
“CM”	means the Category Manager or similar role with equivalent experience and seniority within STAR
“Concessions”	means the granting of a right (exclusive or otherwise) to an economic operator to exploit works or services provided for their own gain with or without payment. Further guidance on Concession Contracts can be found in the Procurement Handbook

“Contract”	means a legally binding agreement between the Council and the Contractor for the procurement by the Council of all Supplies, Services, the execution of Works and which incorporates the terms and conditions under which the Supplies, Services, execution of Works and Concessions will be provided.
“Contractor”	shall mean the Bidder or Tenderer who the Council enters into a Contract with following the submission of a Quote or Tender and who is appointed by the Council to provide the Supplies, Services, execution of Works or Concessions Contract. They may also be referred to as ‘suppliers’, ‘providers’ or ‘service providers’ within certain Council departments.
“Contracts Finder”	means the web-based portal provided for the purposes of Part 4 of the Regulations by or on behalf of the Cabinet Office.
“DPS”	Means Dynamic Purchasing System which is an electronic system procured using the restricted procedure for the purchase of commonly used Supplies Services or Works which are generally available on the market and objectively defined to which all bidders who meet the requirements of the selection criteria must be admitted during the entire period of the validity of the system
“Economic Operator”	means any natural or legal person or public entity or group of such persons and/or entities, including any temporary association of undertakings, which offers the execution of Works and/or a work, the supply of Supplies or the provision of Services on the market
“EIR”	means the Environmental Information Regulations 2004
“Electronic Purchasing System”	means purchases made online or via a telephone system
“EU Procurement Directives”	means the Public Contracts Directive 2014/24/EU, the Concessions Directive 2014/23/EU and other relevant Directives in force from time to time
“Exemption”	means the release of the obligation to comply with these Rules

“Financial Procedure Rules/Regulations”	means the written code of procedures forming part of the Council’s constitution which provide a framework for proper financial management and which set out the rules on accounting, audit, administrative procedures and budgeting systems.
“FOIA”	means the Freedom of Information Act 2000
“Framework Agreement”	means an agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing Call-off Contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
“Invitation to Tender”	means an invitation issued by the Council to Tenderers to submit a Tender or a quote for the provision of Supplies, Services, the execution of Works or a Concessions Contract in accordance with the Specification or request for those Supplies, Services, execution of Works or Concessions Contract.
“Key Decision”	has the same meaning as set out in the Council’s constitution
“Modification”	means any variation to a Contract, DPS or Framework Agreement, including an extension.
“Modification Form”	means the form supplied by STAR for the purpose of recording the authorisation of a Modification.
“Officer”	means any employee of the Council which shall include any person engaged by the Council to act as an agent or consultant on its behalf
“OJEU”	means the Official Journal of the European Union
“PID”	means a Procurement Initiation Document providing details of the procurement activity and the authority to commence it as required in accordance with <u>Rule 5.1</u> .
“Post Tender Report”	means a summary of the outcomes delivered by the procurement activity
“PQQ”	means “pre-procurement questionnaire” and is the document used by the Council to screen potential Tenderers in accordance with the Regulations.

“Procurement Functions”	means the Delegated Functions as defined by the IAA
“Procurement Handbook”	means the document which STAR Procurement may issue after having obtained the consent of the SRO Legal of each authority from time to time to set out the procedure to achieve the Council’s procurement objectives
“Procurement Policy”	means the document which the Council may issue from time to time to set out how it will achieve its procurement objectives
“Purchasing Cards”	means charge cards which work in a similar way to credit cards and can be used by and ASO to purchase Supplies and/or Services.
“Quote”	means a formal offer submitted by a Bidder to supply Supplies, Services, execute Works or operate a Concessions Contract at a defined price
“Regulations”	means the Public Contracts Regulations 2006 SI2006/5, as amended or replaced from time to time, which implement the EU public procurement directives.
“Regulations Threshold”	means the financial threshold identified by the EU Procurement Directives, as amended from time to time, and where applicable, requires the procurement activity to be subject to the Regulations.
“Rules”	means these Contract Procedure Rules
“Scheme of Delegation”	means the scheme identified within the Council’s constitution which delegates powers and duties of the Council to Officers under Section 101 of the Local Government Act 1972 and all other powers enabling such delegation necessary for the discharge of the Council’s functions.
“SCM”	means the Senior Category Manager or similar role with equivalent experience and seniority within STAR
“Services”	means the time, effort and expertise required by the Council, from time to time, and supplied by a Contractor.

“Specification”	means the outputs, outcomes and the scope and nature of Supplies, Services, execution of Works or Concessions Contract required by the Council from a procurement activity.
“SRO”	means “Senior Responsible Officer” and is the Officer delegated in the Council’s Scheme of Delegation for the relevant service with the responsibility for the award of the Contract.
“SRO for Legal”	means the “Senior Responsible Officer for Legal” and is the most senior Officer delegated in the Council’s Scheme of Delegation for Legal Services or in default of such delegation, the Council’s Monitoring Officer.
“SRO for Finance”	means the “Senior Responsible Officer for Finance” and is the most senior Officer delegated in the Council’s Scheme of Delegation for the Finance Services or in default of such delegation, the Officer appointed by the Council pursuant to s151 of the Local Government Act 1972.
“STAR Legal Officer”	means a member of the legal team jointly funded by all participating Council’s in accordance with the IAA, whose role is to provide legal support to STAR.
“STAR”	means the shared procurement service hosted by Trafford Borough Council on behalf of Trafford Borough Council, Rochdale Metropolitan Borough Council, Stockport Metropolitan Borough Council and Tameside Metropolitan Borough Council and other public authorities as determined from time to time whose function and remit is described in these Rules, the IAA and the Councils’ constitutions
“STAR Councils”	means those local authorities who have resolved to delegated their Procurement Functions to the STAR Joint Committee.
Supplies	means an inherently useful tangible item required by the Council, from time to time.
“Tender”	means a formal offer submitted by a Tenderer to the Council at a stated price in response to a Specification to supply Goods, Supplies, execute Works or operate a Concessions Contract.
“Tenderer”	means any Economic Operator that submits a Tender.

“The Chest”	means the Council’s eProcurement system.
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time together with any EU Directives including but not limited to the Acquired Rights Directive 2001/23/EC, as amended from time to time.
“Value for Money”	means the optimum combination of whole-life costs, price, quality and benefits to meet the Council’s requirement. Such a term equates to the EU procurement requirement of most economically advantageous offer as well as the duty of Best Value as defined by the Local Government Act 1999 as amended from time to time.
“Works”	means the provision of physical activity which is directed toward the production or accomplishment of something by the Contractor, from time to time.
“Writing”	the requirement that any document should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it is created and transmitted by electronic means, in legible form, and capable of being used for subsequent reference.

3. Basic Principles and Responsibilities

3.1 Basic Principles

3.1.1 All procurement activity must comply with all of the following principles of European Union (EU) Law:

- a. free movement of Supplies and Services;
- b. non-discrimination;
- c. openness/transparency;
- d. equal treatment for all; and
- e. proportionality

3.1.2 All procurement activity must be compliant with the latest EU laws, national legislation, the Council Constitution and the local policies in Schedule 1, and have regard to:

- a. **The need to achieve accountability** through effective mechanisms which enable Officers and Members of the Council to maintain the highest standards of integrity and honesty and to enable them to discharge their responsibility on issues of procurement risk and expenditure of public money;
- b. **The need to provide consistent procurement policy to suppliers and achieve competitive supply;**
- c. **The need to meet commercial, regulatory and Corporate Priorities of the Council;**
- d. **The need to achieve efficiencies** by administering procurement processes which are cost effective;
- e. **The need to ensure Value for Money**
- f. **The need to ensure fair-dealing** by ensuring that suppliers are treated fairly and without unfair discrimination, including protection of commercial confidentiality where compatible with the Council's obligations under FOIA and EIR;
- g. **The need to maintain integrity** by excluding corruption or collusion with suppliers or others from procurement processes;
- h. **The need to ensure informed decision-making** based on accurate information;
- i. **The need to ensure legality** in the administration of procurement processes and award of contracts;
- j. **The need to promote responsiveness** by endeavouring to meet the aspirations, expectations and needs of the community served by the procurement processes;
- k. **The need to provide transparency** by ensuring that there is openness and clarity on the Council's procurement policy and its delivery.
- l. **The need to create and retain an audit trail in relation to each procurement activity**

3.2 The Responsibilities of Officers and Members

- 3.2.1 Officers and Members involved in procurement activity must comply with these Rules, the Council's Financial Procedure Rules/Regulations, the Council's Employees Code of

Conduct/Members Code of Conduct. They must also have due regard to any guidance provided by STAR.

- 3.2.2 Officers must ensure that any agents, consultants and contractual partners acting on their behalf, also comply with these Rules.

4. Contracts to which these Rules do not apply

- 4.1 Where there is any doubt regarding the application of these Rules, Officers must seek guidance from STAR.

- 4.2 These Rules **do not** apply to the following:

- a. employment contracts for Officers engaged on a PAYE basis;
- b. Contracts relating solely to the disposal or acquisition of securities;
- c. Contracts for the acquisition of an interest in land and property;
- d. Contracts for the appointment of Counsel or the appointment of experts for the purpose of legal, or potential legal proceedings by the SRO for Legal Services;
- e. qualifying Contracts between entities within the public sector.

5. Pre-Procurement Process

5.1 Authority to carry out procurement activity

- 5.1.1 The ASO must ensure that all necessary decisions have been made and that the correct authorisation to procure has been properly obtained prior to the initiation of any procurement activity. Any procurement activity carried out on behalf of the Council must be carried out by an ASO with the appropriate delegated authority as set out in the Scheme of Delegation. . The ASO may be required to provide evidence of any decisions made, any reports concerning and all authorisations granted in respect of the relevant procurement activity. The ASO must submit a PID to STaR prior to starting the relevant procurement activity. By submitting the PID the ASO confirms that they have the authority to carry out the procurement activity.

5.2 Appraisal of the procurement activity

5.2.1 The ASO, together with the APO, must conduct an options appraisal of the route to market and consider the following:

- a. Value for Money;
- b. The need for the expenditure and its priority;
- c. The objectives of the purchase;
- d. Whether it is a Key Decision
- e. Any risks associated with the purchase and how to manage them;
- f. The market;
- g. TUPE and pensions;
- h. Which procurement method is most likely to achieve the purchasing objectives;
- i. Existing and compliant Framework Agreements, DPS or other arrangements; and
- j. The economic, social and environmental wellbeing of the borough and the benefit which the procurement process can bring to the community and have regard to the duty to secure continuous improvement in accordance with Best Value.

5.2.2 Where award for a Contract for services may result in employees of the Council or its Contractor transferring to a new employer, the advice of the SRO for Human Resources and the SRO for Legal must be obtained before the commencement of the procurement activity to ensure compliance with TUPE, and other related legislation, and to assess the implications in respect of pension arrangements.

5.2.3 The APO must ensure that an appropriate Specification or request for a Quote commensurate to the scope of the Supplies, Services, execution of Works or Concessions Contract required is written prior to the commencement of any procurement activity. Advice from STAR must be sought where it is proposed that a Specification or request for a Quote is not used.

5.2.4 For procurement under the Regulations Thresholds, the use of PQQs is no longer permitted by the Regulations. However, the Regulations do permit the use of suitability assessment questions where they are relevant to the subject matter of the procurement and are proportionate. Further guidance on suitability assessment questions may be sought from STAR but in any event, advice must be sought from STAR where it is proposed that such questions are to be used.

5.3 Framework Agreements and DPS

5.3.1 Where, following an options appraisal as required by Rule 5.2, a suitable Framework Agreement or DPS is identified, the requirements of Rule 6 (Quotes) and Rule 7 (Tenders) will not be applicable and the ASO must ensure that:

- a. Any Call-off Contract is entered into in accordance with the terms of the relevant Framework Agreement or DPS; and
- b. Where applicable, a mini-competition (the tender process required by the Framework Agreement) is held in accordance with rules of the Framework Agreement or DPS.

5.3.2 For the avoidance of doubt, a Framework Agreement or DPS is considered suitable where it has either been entered into by:

- a. the Council in compliance with these Rules; or
- b. another local authority, a local authority purchasing consortium or central government where the Framework Agreement or DPS has been tendered and awarded in accordance with EU public procurement legislation, and the Council is identified as a contracting authority.

5.3.3 Where a Framework Agreement or DPS has been set up following an EU Tender, there must be full compliance with EU rules when awarding Call-off Contracts under it.

5.4 Pre-Procurement Market Research and Consultation

5.4.1 The ASO and APO responsible for the procurement activity:

- a. may consult potential Bidders or Tenderers in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, prior to a request

for a Quote or an Invitation to Tender provided this does not prejudice any potential Bidders or Tenderers; and

- b. must not seek or accept technical advice on the preparation of a request for a Quote or an Invitation to Tender from anyone who may have a commercial interest in the tender, as this may prejudice the equal treatment of all potential Bidders and Tenderers or distort competition.

Advice must be sought from STAR in all instances.

5.5 Estimating the Total Value of a Contract, Framework Agreement or DPS

5.5.1 Officers must calculate the total value of the Contract, DPS or Framework Agreement in order to determine which procurement activities should be commenced in accordance with these Rules. The procurement activity that must be followed is prescribed in Table 1 below.

5.5.2 The Council must not split Contracts, DPS or Framework Agreements in order to avoid public procurement rules or calculate the value of the Contract, DPS or Framework Agreement in such a way as to deliberately avoid exceeding the Regulation Thresholds or any threshold identified in these Rules. Therefore, unless otherwise agreed by the SRO Legal all Contracts, DPS or Framework Agreements should be dealt with according to their total value and all Officers must calculate the total value (excluding VAT) of any Contract. The value of a Contract, DPS or Framework Agreement should be calculated as follows and applies to the aggregate value of the Contract, DPS or Framework Agreement:

Yearly contract value X Contract Period in years (including any option to extend) = Total value.

5.5.3 The value of a Framework Agreement and DPS means the maximum estimated amount payable by the users of the Framework Agreement or DPS for the Supplies, Services or

execution of Works (excluding VAT) under Call-off Contracts entered into over the entire possible duration of the Framework Agreement or DPS.

5.5.4 Framework Agreements must not be for more than four years (including options to extend) unless otherwise authorised by the SRO for Legal.

5.5.5 The value of the Contract, DPS or Framework Agreement will determine which procurement activity to follow in accordance with Table 1 below subject to Rules 5.5.6 and 5.5.7:

Table 1: Procurement Activities

Supplies, Services and Concessions

Value Band	Value	Procurement Activity	Minimum Requirement for advertising the opportunity
A	£0 - £4,999.99	Minimum one Quote in accordance with Rule 6 - Quotes	N/A*
B	£5,000 - £24,999.99	Minimum three Quotes in accordance with Rule 6 – Quotes following consultation with STaR	N/A*
C	£25,000 and up to Regulation Threshold	Minimum three Quotes in accordance with Rule 6 – Quotes and subject to risk-based sourcing. Route to market to be agreed in conjunction with STaR	The Chest^
		In accordance with Rule 7 – Tenders and subject to risk-based sourcing. Route to market to be agreed in conjunction with STaR	The Chest and Contracts Finder
D	Above the Regulation Thresholds	Most appropriate procedure permitted by the Regulations	OJEU Notice and Contracts Finder

Works and Public Works Concessions

Value Band	Value	Procurement Activity	Minimum Requirement for advertising the opportunity
A	£0 - £4,999.99	Minimum one Quote in accordance with <u>Rule 6</u> - Quotes	N/A*
B	£5,000 - £24,999.99	Minimum three Quotes in accordance with <u>Rule 6</u> – Quotes following consultation with STaR	N/A*
C	£25,000 – up to the Regulation Threshold	Minimum three Quotes in accordance with <u>Rule 6</u> – Quotes and subject to risk-based sourcing. Route to market to be agreed in conjunction with STaR	The Chest
		In accordance with <u>Rule 7</u> – Tenders and subject to risk-based sourcing. Route to market to be agreed in conjunction with STaR	The Chest and Contracts Finder
D	Not Required		
E	Above the Regulation Thresholds	Most appropriate procedure permitted by the Regulations	OJEU notice and Contracts Finder

***WHERE ANY OPPORTUNITY OVER £25K IS OPENLY ADVERTISED, IT MUST BE PLACED ON CONTRACTS FINDER**

5.5.6 Where the Contract value falls within Value Band B or C for Supplies, Services and Concession Contracts or Value Band B or C for Works and Public Works Concession Contracts within Rule

5.5.5 Table 1, the ASO and the APO shall jointly determine which procurement activities should be undertaken.

5.5.7 Where the value of the Contract is above the Regulation Thresholds, the ASO and the APO will determine which procurement activity to follow in accordance with the Regulations.

5.5.8 Irrespective of the value in Rule 5.5.5 Contracts and Framework Agreements that are subject to European Union grant funding requirements shall be advertised in accordance with published guidance, ERDF National Procurement Requirements (ERDF-GN-1-004) as amended from time to time.

5.5.9 The ASO and APO shall ensure that, where proposed Contracts or Framework Agreements, irrespective of their value, might be of interest to potential Economic Operators located in other member states of the European Union, a sufficiently accessible advertisement is published.

5.6 Standards and Award Criteria

5.6.1 Before inviting Quotes or Tenders, the ASO, with support from the APO, must ascertain any relevant British, European or international standards which apply to the subject matter of the Contract. The ASO must include those standards or equivalent where they are necessary to describe the required quality. In any instances of uncertainty, STAR can be consulted if it is proposed to use standards other than European standards.

5.6.2 The ASO must define award criteria that is appropriate to the procurement activity and designed to secure an outcome giving Value for Money for the Council. The basic award criteria shall include one of the following:

- a. Most economically advantageous tender ("MEAT") - where considerations other than price also apply;
- b. Lowest price - where payment is to be made by the Council;

- c. Highest price - if payment is to be received.

If MEAT is the chosen award criteria, advice must be obtained from STAR to ensure that it is compatible with the EU Directives and the Regulations.

- 5.6.3 The ASO must seek advice from STAR to ensure any award criteria are compliant with relevant legislation and best practice.

6. Quotes

6.1 Requests for Quotes

- 6.1.1 All Quotes, including those in mini-competitions under Framework Agreements, must be confirmed in writing before a decision to award can be made and all Quotes must be stored on The Chest.
- 6.1.2 When requesting a Quote, an appropriate description of the Supplies, Services, execution of Works or Concessions (commensurate with the value of the Contract) setting out the Council's requirements in sufficient detail must be provided to prospective Bidders to enable the submission of competitive Quotes.
- 6.1.3 The request for a Quote shall also make reference to or include the following as a minimum:
 - a. the terms and conditions of Contract that will apply; and
 - b. notification that Quotes are submitted to the Council on the basis that they are compiled at the Bidder's expense; and
 - c. a description of the award criteria as appropriate and in accordance with Rule 5.6; and
 - d. the date and time by which a Quote is to be submitted by; and
 - e. that the Council is not bound to accept any Quotes submitted.
- 6.1.4 The proposed form of Contract must comply with Rule 8 and where possible the Council's standard terms and conditions of Contract must be used. Advice must be sought from a

STAR Legal Officer and approval given by the SRO for Legal where alternative terms and conditions are used.

- 6.1.5 Where requests for a Quote are sought from more than one prospective Bidder, where possible, the request must be sent to each Bidder at the same time and contain the same conditions. Any supplementary information must be given on the same basis.

6.2 Submission and Receipt of Quotes

- 6.2.1 Bidders must be given a reasonable period in which to prepare and submit a proper Quote, consistent with the complexity of the Contract requirement.
- 6.2.2 In the event that an abnormally low Quote is received, the ASO must take advice from STAR on how to proceed.
- 6.2.3 Any Quote (including all associated documents) submitted after the specified date and time for submission of Quotes shall only be accepted or considered by the Council in exceptional circumstances and only with agreement from the SRO for Legal Services.
- 6.2.4 If fewer than the minimum number of Quotes is received as stipulated in Table 1 in Rule 5.5, then advice must be sought from the Director of Procurement (STAR) as to whether to proceed. Any decision must be recorded in writing and stored on The Chest.

6.3 Amendments to Quotes

- 6.3.1 The Council may accept amendments to Quotes, including those in mini-competitions under Framework Agreements, providing they are received prior to the closing date for submissions. In such circumstances, any alterations must be made by resubmitting a new Quote and clearly highlighting which Quote (and associated documents) is correct and which should be considered as part of the procurement activity.
- 6.3.2 A Quote may be amended after the closing date for submission if the amendment is made only in order to correct an arithmetical error. Such amendments may only be made with the prior approval of the Director of Procurement (STAR).

6.4 Evaluation of Quotes

- 6.4.1 All compliant Quotes, including those in mini-competitions under Framework Agreements, must be checked by the ASO to ensure they are arithmetically correct. The ASO may seek advice from STAR if there is any doubt. If arithmetical errors are found they should be notified to the Bidder, who should be requested to confirm or withdraw their Quote. Alternatively, if the rates in the Quote prevail over the overall price, an amended Quote may be requested to accord with the rates given by the Tenderer.
- 6.4.2 Where MEAT is used as the award criteria, all evaluations including an explanation of the reasons for the scores should be recorded on The Chest. The ASO must then confirm to STAR that the Contract can be awarded in accordance with Rule 6.5 by updating the PID.
- 6.4.3 Officers must ensure transparency and fairness during the evaluation process.
- 6.4.4 In accordance with the Council's risk-based sourcing policy, the ASO and/or APO may require a best and final offer from the Tenderer whose submitted Quote is the most economically advantageous, the lowest price or the highest price in accordance with Rule 5.6.2.

6.5 Contract Award – through a Quotation Process

- 6.5.1 The Contract will be awarded in accordance with the award criteria used.
- 6.5.2 Where the Quote is not within the relevant approved budget but additional budgetary provision is available, the relevant ASO, with the approval of the SRO for Finance, may accept the Quote ensuring compliance with the Financial Procedure Rules/Regulations.
- 6.5.3 The approval to award the Contract must be given in accordance with the Council's Scheme of Delegation.
- 6.5.4 All award decisions must be recorded in the PID, signed and dated by the ASO, the APO and the SRO for the relevant service.

6.5.5 Once the decision has been made and the approval given to award the Contract, the ASO must send a Contract award letter to the winning Bidder(s).

6.5.6 Prior to commencement of the Contract, the Contract must be completed in accordance with Rule 8.2 unless Rule 82.5 applies.

6.5.7 STAR will, where necessary, advise on the formalities for completion of the contract by parties other than the Council and how to ensure that the Contract is legally binding.

7. Tenders

7.1 Invitations to Tender

7.1.1 All Tender opportunities must be placed on The Chest and, where appropriate, Contracts Finder in accordance with Table 1 at Rule 5.5.

7.1.2 The Invitation to Tender, shall include the following where appropriate:

- a. A form upon which the Tenderer can provide details of its bid (“Form of Tender”);
- b. A reference to the Council’s ability to award in whole, in part or not at all;
- c. A Specification that describes the Council’s requirements in sufficient detail to enable the submission of competitive offers;
- d. the terms and conditions of Contract that will apply;
- e. A requirement for Tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the Tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose);
- f. A requirement for Tenderers to fully complete and sign all Tender documents including the Form of Tender and certificates relating to canvassing and non-collusion;
- g. Notification that Tenders are submitted to the Council on the basis that they are compiled at the Tenderer’s expense;

- h. A description of the award procedure and the evaluation criteria to be used to assess Tenders including any weightings as considered appropriate and in accordance with Rule 5.6. The evaluation criteria must be clear, concise and unambiguous and must be approved by the APO in consultation with the ASO. The evaluation criteria cannot be amended once published in the Invitation to Tender;
- i. The method by which any arithmetical errors discovered in the submitted Tenders are to be dealt with and in particular, whether the overall price prevails over the rates in the Tender or vice versa;
- j. Whether the Council is of the view that TUPE will be applicable in relation to the procurement activities;
- k. Whether additional arrangements will be required in relation to pension provision;
- l. Provisions relating to the Council's termination rights in the event that corruption is discovered;
- m. The relevance and application of any parent company guarantees and/or bonds;
- n. That the Council is not bound to accept Tenders; and
- o. Any matters required by local policies in Schedule 1.

7.1.3 The proposed form of Contract must comply with Rule 8 and where possible the Council's standard terms and conditions of Contract must be used. Advice must be sought from the STAR Legal Officer and approval given by the SRO for Legal where alternative terms and conditions are used.

7.1.4 All Tenderers invited to Tender must be issued with the same information at the same time and contain the same conditions. Any supplementary information must be given on the same basis.

7.1.5 All communications relating to Tenders must be recorded on The Chest.

7.2 Pre and Post Tender Clarification Procedures

- 7.2.1 Providing pre-Tender clarification to potential or actual Tenderers, or seeking clarification of a Tender, is permitted subject to Rule 7.2.3.
- 7.2.2 Post-tender clarification may be undertaken with Tenderers only where it is essential in order to be completely clear about any fundamental aspect of the Tender submission before the completion of the Tender evaluation process and subject to Rule 7.2.3.
- 7.2.3 All pre- and post- tender communication must be conducted either in writing or in a meeting recorded by the ASO or APO. All correspondence or meetings must be documented and retained on The Chest. Where a meeting is required, there must always be more than one Officer present.
- 7.2.4 At all times during the clarification process, the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.
- 7.2.5 Unless otherwise permitted by the Regulations, in no circumstances are post-award negotiations permitted.

7.3 Submission and Receipt of Tenders

- 7.3.1 Tenderers must be given a reasonable period in which to prepare and submit a proper Tender, consistent with the complexity of the Contract requirement and in accordance with the Regulations.
- 7.3.2 Any Tender (including all associated documents) submitted after the specified date and time for submission of Tenders shall only be accepted or considered by the Council in exceptional circumstances and only with agreement from the SRO for Legal Services.

7.3.3 All Tenders received, including those in mini-competitions under Framework Agreements, must remain unopened until the specified closing date and time has passed.

7.3.4 If less than the minimum number of Tenders is received as stipulated in Table 1 in Rule 5.5, then advice must be sought from the Director of Procurement (STAR) on how to proceed. Any decision must be recorded in writing and stored on The Chest.

7.4 Verifying and Opening Tenders

7.4.1 Tenders are to be verified by an APO who is independent of the procurement activity to which the Tender relates.

7.4.2 Once verified, Tenders are to be opened in accordance with the following Table 2:

Table 2

Value of Contract	Officers required to be present:	Expected Duration
£0 - £49,999.99	APO	Within 2 working days of the deadline for submission
£50,000 and above	CM or SCM	Within 2 working days of the deadline for submission

7.5 Amendments to Tenders

7.5.1 The Council may accept amendments to Tender submissions, including those in mini-competitions under Framework Agreements, providing they are received prior to the closing date for submissions.

- 7.5.2 A Tender may be amended after the closing date for submission if the amendment is made only in order to correct an arithmetical error. Such amendments may only be made with the prior approval of the Director of Procurement (STAR).

7.6 Evaluation of Tenders

- 7.6.1 If a PQQ or an expression of interest prior to PQQ was used, all those Tenderers must be given feedback at the relevant stage.
- 7.6.2 In the event that an abnormally low Tender is received, the ASO must take advice from STAR on how to proceed.
- 7.6.3 All compliant Tenders, including those in mini-competitions under Framework Agreements, must be checked by the ASO and the APO to ensure they are arithmetically correct. If arithmetical errors are found they should be notified to the Tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the rates in the Tender prevail over the overall price, an amended Tender price may be requested to accord with the rates given by the Tenderer.
- 7.6.4 Where MEAT is used as the award criteria, all evaluations including an explanation of the reasons for the scores should be recorded on The Chest. The ASO must then confirm to STAR that the Contract can be awarded by updating the PID.
- 7.6.5 Officers must ensure transparency and fairness during the evaluation process.
- 7.6.6 In accordance with the Council's risk-based sourcing policy, the APO may require a best and final offer from the Tenderer whose submitted Tender is the most economically advantageous, the lowest price or the highest price in accordance with Rule 5.6.2.

7.7 Contract Award – through a Tender process

- 7.7.1 The winning Tender shall be awarded the Contract in accordance with the award criteria used.
- 7.7.2 Where the Tender is not within the relevant approved budget but additional budgetary provision is available, the relevant ASO, with the approval of the SRO for Finance, may accept the Tender ensuring compliance with the Financial Procedure Rules/Regulations.
- 7.7.3 The approval to award the Contract must be given in accordance with the Council's Scheme of Delegation.
- 7.7.4 All award decisions must be recorded in the PID, signed and dated by the ASO, the APO and the SRO for the relevant service.
- 7.7.5 A Contract which has a contract value above the Regulation Thresholds, can only be awarded after a notice of the proposed award has been given to all unsuccessful Tenderers and the 10 day standstill period has elapsed from the date the notice was given. If the 10 days expire on a non-working day, then the notice period will be deemed to have lapsed on the next working day.
- 7.7.6 Once the decision to award a Contract is made, each Tenderer must be notified by either the ASO or the APO in writing of the outcome. All Tenderers must be notified simultaneously and as soon as possible of the intention to award the Contract to the successful Tenderer(s) and this should be done via The Chest. The letters must include a description of the relative advantages of the successful Tenderer.
- 7.7.7 Prior to commencement of the Contract, the Contract must be completed in accordance with Rule 8.2 unless Rule 8.2.5 applies.

7.7.8 A STAR Legal Officer will, where necessary, advise on the formalities for completion of the contract by parties other than the Council and how to ensure that the Contract is legally binding.

7.7.9 The APO must publish a contract award notice in the OJEU and on the Council's website no later than 48 days after the date of award of the Contract where a Contract value exceeds the Regulation Threshold and has been tendered pursuant to the Regulations or is subject to the relevant provision of the Regulations relating to Contract award.

7.7.10 Contract award letters, feedback to Tenderers and the contract Terms and Conditions, including any incidental documentation must be approved by the APO prior to sending where the value of the Contract is over the Regulation Thresholds.

7.8 Enquiries about the Tender process

7.8.1 The confidentiality of Tenders and the identity of Tenderers must be preserved at all times insofar as this is compatible with the Councils' obligations under FOIA and EIR.

7.8.2 If the Council receives a request for information under the FOIA as a result of the de-briefing process, the request must be referred to both the Director of Procurement (STAR) and the relevant Officer of the Council who deals with such requests. The Council will be responsible for responding to the request.

7.8.3 Any challenges, complaints or requests for feedback, clarification or further information must be referred to the Director of Procurement (STAR) who will advise on how to respond and notify the SRO for Legal.

8. Contract Provisions and Contract Formalities

8.1 Contract Provisions

8.1.1 All Contracts must be in writing and must set out the parties' obligations, rights and risk allocations. Advice must be sought from STAR as to the appropriate form of Contract to be used and where possible, be on the Council's standard terms and conditions.

8.1.2 All Contracts, irrespective of value, shall, where appropriate, clearly specify as a minimum:

- a. What is to be supplied (i.e. the Works, materials, services, matters or things to be furnished, had or done)
- b. The provisions for payment (i.e. the price to be paid and when)
- c. The time, or times, within which the contract is to be performed
- d. The provisions for the Council to terminate the Contract and break clauses.
- e. The provision for collateral warranties from sub-contractors.

8.1.3 STAR can provide advice on Contract specific terms and conditions.

8.2 Contract Formalities

8.2.1 Once a decision to award has been made in accordance with Rule 6.5.3 or 7.7.3, the Contract must either be signed by the Officer authorised to award the Contract under the Council's Scheme of Delegation, or signed by the SRO for Legal, or sealed in accordance with Rule 8.3.2.

8.2.2 Where the Contract is to be in writing, the ASO or APO must arrange for the Contract including all schedules and appendices to be signed by all parties. This can be done in two ways:

- a) Sending bound hard copies of the Contract to the winning Bidder(s) or Tenderer(s) for signing; or
- b) Sending electronic copies of the Contract to the winning Bidder(s) or Tenderer(s) for printing, binding and signing.

8.2.3 Before arranging for the Contract to be signed or sealed on behalf of the Council, the ASO must check that the returned signed Contract has not been amended or altered by the winning Bidder(s) or Tenderer(s) without prior written agreement by the Council.

8.2.4 Rules 8.2.1 to 8.2.3 do not apply to purchases made through an Electronic Purchasing System (EPS).

8.2.5 All Contracts which are to be formally completed in writing must be completed before the Supplies are supplied, or the Service, execution of Works or Concessions Contract begins, except in exceptional circumstances, and then only with the prior approval from the SRO for Legal.

8.2.6 A purchase order must be raised in the appropriate eProcurement system for all Supplies, Services and Works requirements to be acquired through an EPS and for all Contracts. The purchase order must attach the terms and conditions of Contract between the Council and the Contractor.

8.2.7 The ASO must ensure that the person signing on behalf of the Contractor has requisite legal authority to bind the Contractor. Where there is any doubt, the ASO must seek advice from the STAR Legal Officer.

8.3 **Contracts under Seal**

8.3.1 A Contract must be sealed where:

- a. The Council wishes to extend the liability period under the Contract and enforce its terms for up to 12 years; or
- b. The price to be paid or received under the Contract is a nominal price and does not reflect the value of the Supplies or Services; or
- c. There is any doubt about the authority of the person signing for the other contracting party; or
- d. The Contract value is £250,000 or above.

8.3.2 The seal must be affixed in accordance with the provisions of the Council's Constitution.

8.4 Transfer of Contracts

8.4.1 No Contract should be transferred from one Contractor to another without first consulting STAR. Contracts can only be transferred if approved in accordance with the table below:

Value of Contract/Quote	Decision Maker
All values	SRO for Finance and SRO for Legal or their nominees in accordance with the Council's Scheme of Delegation and consultation in with the Director of Procurement (STAR)

9. Exemptions and Modifications

9.1 Exemptions

9.1.1 In limited circumstances, it may be necessary to seek an Exemption from the Rules and guidance from STAR must be sought before any procurement activity commences.

9.1.2 An Exemption cannot be given where this would contravene the Regulations.

9.1.3 Exemptions will only be considered in exceptional circumstances. Examples of circumstances which may be considered exceptional could include the following:

- a. The arrangement is a permitted exemption from the requirement for competition contained in European or domestic legislation;
- b. To comply with legal requirements;
- c. The Contract is for Supplies, Services or the execution of Works which are required in circumstances of extreme urgency or unforeseeable emergency involving risks to persons, property or serious disruption to Council services;
- d. Repairs or parts — if the only option is to repair or buy new parts for existing equipment or buildings, and there is only one supplier;
- e. Where a Service review includes the intention to co-terminate relevant Contracts;
- f. Proprietary or patented Supplies or Services are proposed to be purchased which, in the opinion of the ASO, are only obtainable from one person, and it can be demonstrated that no reasonably satisfactory alternative to those proprietary or patented Supplies is available; or
- g. The ASO can demonstrate that no genuine competition can be obtained in respect of the purchase of particular Supplies, Services or execution of Works; or
- h. The ASO is satisfied that the Services or execution of Works are of such a specialist nature that they can only be carried out by one person (e.g. statutory undertakers); or
- i. Supplies are proposed to be purchased by or on behalf of the Council at a public auction; or
- j. Supplies or Services are proposed to be purchased which are of a specialist or unique nature (such as antiquities for museums or a particular performance artist); or
- k. Any other exceptional circumstances.

9.2 Procedure for Exemptions

- 9.2.1 To apply for an Exemption the ASO must fill in the Exemption Form and submit it to the STAR for consideration and recommendation. This Exemption Form must then be signed (electronically or by hand) in accordance with the table below (unless Rule 9.2.2 applies).

Value of Contract/Quote	Decision Maker
All values	SRO for Finance and SRO for Legal or their nominees in accordance with the Council's Scheme of Delegation and in consultation with the Director of Procurement (STAR)

- 9.2.2 If an Exemption requires a Key Decision, then that Key Decision must be made in accordance with the Council's Constitution. Guidance from STAR must be sought if there is any doubt as to whether a decision is a Key Decision.
- 9.2.3 The ASO must ensure that the Exemption Form provides full details of the request and any supplementary documentation to support the request.
- 9.2.4 No commitment should be made to a potential Contractor prior to authorisation.
- 9.2.5 The Director of Procurement (STAR) is responsible for ensuring a complete record of all Exemptions. A record of the decision approving an Exemption and the reasons for it must be stored electronically on The Chest.
- 9.2.6 In circumstances of extreme urgency, the relevant decision maker in 9.2.1 above may authorise an Exemption in writing without the need to complete an Exemption Form. The written authorisation provided in accordance with this Rule 9.2.6 must be submitted to STAR to be stored electronically on The Chest.

9.2.7 The ASO, in conjunction with STAR and a STAR Legal Officer, shall ensure that the Contract terms and conditions are appropriate taking into account all relevant factors (such as benefit and risk to the Council) and ensure that the Contract complies with Rule 8

9.3 Modifications to a Contract or Framework Agreement

9.3.1 Contracts and Framework Agreements may be modified during their term without a new procurement procedure in accordance with this Rule 9.3 in any of the following cases:

- (a) where the Modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses
 - (i) state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and
 - (ii) do not provide for modifications or options that would alter the overall nature of the Contract or the Framework agreement;
- (b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor:
 - (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or
 - (ii) would cause significant inconvenience or substantial duplication of costs for the Council,provided that any increase in price does not exceed 50% of the value of the original Contract or Framework Agreement;
- (c) where all of the following conditions are fulfilled:
 - (i) the need for Modification has been brought about by circumstances which a diligent Council could not have foreseen;
 - (ii) the modification does not alter the overall nature of the Contract or Framework Agreement;
 - (iii) any increase in price does not exceed 50% of the value of the original Contract or Framework Agreement.

- (d) where a new Contractor replaces the one to which the Council had initially awarded the Contract or Framework Agreement as a consequence of:
 - (i) an unequivocal review clause or option in conformity with sub-paragraph (a),
or
 - (ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of the Regulations;
- (e) where the Modifications, irrespective of their value, are not substantial within the meaning of Rule 9.3.5; or
- (f) where Rule 9.3.3 applies.

9.3.2 Where several successive Modifications are made:—

- (a) the limitations imposed by the proviso at the end of Rule 9.3.1 (b) and by Rule 9.3.1 (c)(iii) shall apply to the value of each Modification; and
- (b) such successive Modifications shall not be aimed at circumventing the Regulations.

9.3.3 This Rule 9.3.3 applies where the value of the Modification is below both of the following values:

- (a) the relevant OJEU Threshold and
- (b) 10% of the initial Contract or Framework Agreement value for service and supply Contract or Framework Agreement and 15% of the initial Contract or Framework Agreement value for works contracts,

provided that the Modification does not alter the overall nature of the Contract or Framework Agreement

9.3.4 For the purposes of Rule 9.3.3 where several successive Modifications are made, the value shall be the net cumulative value of the successive modifications.

9.3.5 A Modification of a Contract or a Framework agreement during its term shall be considered substantial for the purposes of Rule 9.3.1(e) where one or more of the following conditions is met:

- (a) the Modification renders the Contract or Framework Agreement materially different in character from the one initially concluded;
- (b) the Modification introduces conditions which, had they been part of the initial procurement procedure, would have:
 - (i) allowed for the admission of other Tenderer than those initially selected,
 - (ii) allowed for the acceptance of a Tender other than that originally accepted, or
 - (iii) attracted additional participants in the procurement procedure;
- (c) the Modification changes the economic balance of the Contract or Framework Agreement in favour of the Contractor in a manner which was not provided for in the initial Contract or Framework Agreement; or
- (d) the Modification extends the scope of the Contract or Framework Agreement considerably;
- (e) a new Contractor replaces the one to which the Council had initially awarded the Contract or Framework Agreement in cases other than those provided for in paragraph Rule 9.3.1(d).

9.3.6 For the avoidance of any doubt, an extension of the term of a Contract or Framework Agreement should be treated as a Modification where the original Contract or Framework Agreement make provisions for such an extension of term;

- (a) a Contract or Framework Agreement term should not be automatically extended where the Contract or Framework Agreement contains provisions to extend the term, Further guidance on extensions of terms should be sought by reference to the Procurement Handbook and STAR.

9.4 Procedure for Modifications

9.4.1 To apply for a Modification the ASO must fill in the Modification Form and submit it to the STAR for consideration and recommendation. This Modification Form must then be signed (electronically or by hand) in accordance with the table below.

Value of Contract/Quote	Decision Maker
All values	SRO for Finance and SRO for Legal or their nominees in accordance with the Council's Scheme of Delegation and in consultation with the Director of Procurement (STAR)

9.4.2 The ASO must ensure that the Modification Form provides full details of the request and any supplementary documentation to support the request.

9.4.3 No commitment should be made to a potential Contractor prior to authorisation.

9.4.4 The Director of Procurement (STAR) is responsible for ensuring a complete record of all Modifications is kept and a record of the decision approving a Modification and the reasons for it must be submitted to STAR to be stored electronically on The Chest.

10. Declarations of Interest and Anti-Bribery and Corruption

10.1 The Council's reputation with regards to procurement activity is important and should be safeguarded from any imputation of dishonesty or corruption. All elected Members of the Council and Officers are reminded of their responsibilities in relation to gifts, hospitality and any conflicts of interest and should ensure they comply with the obligations set out in the Council's Members' Code of Conduct and the Officers' Code of Conduct respectively and any other relevant policies, guidance or strategies relating to bribery, fraud and corruption issued or endorsed by the Council from time to time

10.2 Any Officer or Member must declare any interest which could influence their judgement in relation to procurement activity in accordance with the Council's Codes of Conduct.

- 10.3 No gifts or hospitality should be accepted from any Bidders or Tenderers involved in procurement activity except in accordance with the Council's Codes of Conduct.

11. Contract Management

- 11.1 All Contracts must have a Council Contract Manager ("Contract Manager") for the entirety of the Contract. In the event that there is no named Contract Manager the ASO will fulfil the role of Contract Manager.
- 11.2 The Contract Manager will be responsible for reviewing monitoring and evaluating the contract to ensure that its provisions and the services within it are being followed and performed as they should be.
- 11.3 During the life of the Contract, the Contract Manager should monitor the Contract in respect to the following:
- a. Performance (against agreed KPIs where relevant);
 - b. Compliance with specification and contract;
 - c. Cost;
 - d. Any Best Value duties ;
 - e. Continuous Improvement;
 - f. User satisfaction; and
 - g. Risk management.
- 11.4 Where the Contract is to be re-let, this information should be available early enough to inform the approach to re-letting the next contract.
- 11.5 STAR can provide advice and support on good practice in performance management of Contracts.
- 11.6 All Contracts must be included and published on the Contracts Register maintained by STAR in line with the Local Government Transparency Code 2014. This is a mandatory requirement and it is the responsibility of the SRO for each Service to ensure that they have informed STAR of the Contracts they are responsible for and provided them with the information necessary to update the Contracts Register accordingly.

12. Retaining Relevant Documents

12.1 All records in relation to the award of Contracts and the associated procurement process, including supporting documentation, shall be stored by STAR in an electronic filing system to be available for inspection by the Council's internal and external auditors, or Officer, immediately upon request. Records will be retained in accordance with relevant regulations applicable to electronic record retention.

12.2 Hard copies of all written contracts shall be retained as follows:

Contracts with a value between £5,000 and £249,999.99	for six years after the end of the Contract
all sealed Contracts and Contracts with a value of £250,000 and above	for twelve years after the end of the Contract
Contracts that are grant funded regardless of value	Must comply with retention period above or the terms and conditions of the grant, whichever is the longer

12.3 If legislation related to any individual Contract stipulates a longer retention period than this, then the legislation requirements takes precedence over the Council's minimum periods.

12.4 Once executed, the Council shall retain one original of the complete Contract documents in line with the timescales in the table above and one copy of the complete Contract documents shall be provided to the Contractor.

SCHEDULE 1

Local arrangements for Trafford Council

There are no local arrangements.

OFFICER EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment - General

(1) Declarations

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

(2) 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.

(3) Definition of Chief Officer

Throughout these Officer Employment Procedure Rules the term “Chief Officer” shall include all officers employed on Joint Negotiating Committee (JNC) National Salary Framework and Conditions of Service Handbook for Chief Officers.

2. Recruitment of Head of Paid Service, Chief Officers and Directors

- (1) Where the Council proposes to appoint a Head of Paid Service, Chief Officer or Director and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
 - (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
 - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) make arrangements for a copy of the statement mentioned in paragraph 1(a) to be sent to any person on request.

- (2) Where a post has been advertised as provided in (1) (b), the Council's Appointments and Appeals Panel shall –
 - (a) interview all qualified applicants for the post, or
 - (b) select a shortlist of such qualified applicants and interview those included on the shortlist.
- (3) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with (1)(b).

3. Appointment of Head of Paid Service

- (1) The Executive Notice and Objection Process must be followed before the appointment is referred to full Council for approval.
- (2) The full Council must approve the appointment of the Head of Paid Service before an offer of appointment is made following the recommendation of such an appointment by an Appointments and Appeals Panel.
- (3) The Executive Notice and Objection process shall be as follows:
 - (a) the Proper Officer shall be notified of the name of the person to whom the Appointments and Appeals Panel wishes to make the offer of an appointment and any other particulars which the Appointments and Appeals Panel considers are relevant to the appointment;
 - (b) the Proper Officer has notified every member of the Executive of
 - (i) the name of the person to whom the offer of an appointment is to be made and any other relevant particulars notified to the Proper Officer; and
 - (ii) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Executive to the Proper Officer; and
 - (c) either –
 - (i) the Executive Leader has, within the period specified under (2)(b(ii)), notified the Proper Officer that neither (s)he nor any other member of the Executive has any objection to the making of the offer;
 - (ii) the Proper Officer has notified the Appointments and Appeals Panel that no objection was received by him/her within that period from the Executive Leader; or

- (iii) the Proper Officer is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

4. Appointment of Corporate Directors and Directors

Other than in exceptional circumstances (exceptional circumstances to be determined by the Proper Officer in consultation with the Chair of Employment Committee):

- (1) An Appointments and Appeals Panel will appoint Statutory and Non-Statutory Chief Officers and Deputy Chief Officers, as defined in the Local Government and Housing Act 1989, (definitions set out below) in accordance with Joint Negotiating Committee (JNC) Conditions of Service and Council and government policies and procedures.

Definitions:

Statutory Chief Officer – director of children’s services, director of adult social services and officer with responsibility for the administration of the Council’s financial affairs

Non-Statutory Chief Officer – a person for whom the Head of Paid Service is directly responsible; a person who, as respects all or most of their duties (excluding secretarial/clerical duties), is required to report directly to or is directly accountable to the Head of Paid Service or the Authority itself

Deputy Chief Officer – a person who, as respects all or most of their duties (excluding secretarial/clerical duties), is required to report directly to or is directly accountable to the one or more of the chief officers

- (2) An offer of appointment must not be made by or on behalf of the Appointments and Appeals Panel until the Executive Notice and Objection Process has been followed.
- (3) All decisions shall be reported to Employment Committee prior to reporting to full Council.

5. Other appointments

- (1) **Officers below Deputy Chief Officer**

Officers below the level of Deputy Chief Officer can only be appointed by the Chief Executive or officers nominated by him/her, and shall not be made by councillors.

- (2) **Assistants to political groups**

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. Disciplinary action

(1) Suspension

The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

(2) Disciplinary action against the Head of Paid Service, Monitoring Officer and Section 151 Chief Finance Officer

No other disciplinary action may be taken in respect of any of the officers described in (1) above except in accordance with a recommendation in a report made by a disciplinary panel under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. The Disciplinary and Dismissal Procedure for Head of Paid Service, Monitoring Officer and Section 151 Chief Finance Officer is set out as an appendix to these Officer Employment Procedure Rules.

(3) Disciplinary action against officers below deputy chief officer

Councillors will not be involved in the disciplinary action against any officer below Head of Service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

7. Dismissal

(1) Head of Paid Service

- (a) Subject to 8(2) the full Council must approve the dismissal of the Head of Paid Service before notice of dismissal is given following the recommendation of dismissal by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Executive.
- (b) Notice of the dismissal of the Head of Paid Service must not be given by or on behalf of the committee or sub-committee ("the Committee") until —
 - (i) the Committee has notified the Proper Officer that they wish to dismiss the Head of Paid Service and of any particulars which the Committee considers are relevant to the dismissal;
 - (ii) the Proper Officer has notified every member of the Executive

- (a) that the Committee wishes to dismiss the Head of Paid Service and of any other particulars relevant to the dismissal which the Committee has notified to the Proper Officer; and
- (b) of the period within which any objection to the dismissal is to be made by the Executive Leader on behalf of the Executive to the Proper Officer; and
- (iii) either –
 - (a) the Executive Leader has, within the period specified in the notice under (1)(b)(ii) above, notified the Committee that neither (s)he nor any other member of the Executive has any objection to the dismissal;
 - (b) the Proper Officer has notified the Committee that no objection was received by him/her within that period from the Executive Leader; or
 - (c) the Committee is satisfied that any objection from the Executive Leader within that period is not material or well founded.

(2) Directors and Heads of Service

- (a) A Committee, sub-committee or another officer may discharge the function of the dismissal of a director or head of service. If a committee or sub-committee is discharging the function that committee or sub-committee must include at least one member of the Executive.
- (b) Notice of the dismissal of a director or head of service must not be given by a committee, sub-committee or officer (“the Committee”) until the procedure set out in 7(1)(b)(i), (ii) and (iii) above has been followed.

(3) Officers below Head of Service

Dismissal of officers below head of service (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and shall not be made by Councillors.

8. Appeals

- (1) Nothing set out above shall prevent a councillor from serving as a member of any committee or sub-committee established by the Council to consider an appeal by —
 - (a) another person against any decision relating to the appointment of that person as an officer of the Council; or

- (b) an officer of the Council other than the Head of Paid Service against any decision relating to the dismissal or, or taking disciplinary action against, that officer.
- (2) Prior to a meeting of full Council to approve the dismissal of the Head of Paid Service a committee to consider any appeal by the Head of Paid Service must be established. The Members appointed to that appeal committee must not attend or participate in that part of the Council meeting which considers the dismissal of the Head of Paid Service.

9. Proper Officer

For the purposes of these Officer Employment Procedure Rules the Proper Officer shall be the Head of Paid Service except:

where the dismissal relates to the Head of Paid Service when the Proper Officer shall be the Monitoring Officer, or in the Monitoring Officer's absence, the Corporate Director of Finance and Systems shall act in the Proper Officer's stead.

Disciplinary and Dismissal Procedure for Head of Paid Service, Monitoring Officer and Section 151 Chief Finance Officer

Employment Committee on 10 August 2015 adopted the procedure, as provided for in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, as follows:

1. Where an allegation of potential misconduct is made against the Head of Paid Service, Monitoring Officer or Chief Finance Officer (the 'protected officers'), then the Leader of the Council, in conjunction with the Corporate Director of People (and Head of Paid Service, where the allegation is not related to them) will consider whether the issues require investigation and, where this is the case, determine the most appropriate person to conduct the investigatory process.
2. This will ordinarily be an external, independent investigator, with the relevant background, skill set and experience to conduct investigations of this nature. The independent investigator will undertake their investigation in accordance with the ACAS Code of Practice.
3. The Leader of the Council, Head of Paid Service (where appropriate) and the Corporate Director of People, will consider whether suspension is appropriate or whether there are any other suitable alternative ways of managing the situation. Where suspension is deemed appropriate, the Corporate Director of People will ensure that agreed suspension protocols are followed.
4. The findings from the investigation will be presented to a Panel; this Panel must consist of a least 2 independent persons, who must be drawn from those appointed under section 28(7) of the Localism Act 2011. In addition, the Panel will comprise of Elected Members who will ordinarily be members of the Employment Committee and will be politically balanced in line with the rules of proportionality. The Panel will be advised by the Corporate Director of People (or their representative).
5. The 'protected officers' are entitled to make personal representations to the Panel and have the right to be accompanied by their Trade Union representative or a work colleague if they so wish.
6. The Panel will consider the conclusions of the investigation and any representations from the protected officer concerned.
7. Where it is considered by the Panel that no action or action short of dismissal should take place, then the Panel can progress in confirming the outcome of the Panel meeting and there is no requirement to put the matter forward for an authority vote.

8. Where the Panel determines that action short of dismissal is the appropriate sanction, the protected officer has the right of appeal to a politically-balanced Appeals Committee ordinarily made up of members of the Employment Committee, who were not involved in the Panel meeting. The appeal hearing will take the form of a review of the case and the decision that was taken by the Panel. The protected officer will be invited to make their verbal/written representations to the Appeals Committee for consideration. Where the protected officer chooses to present verbally, representatives from the Panel will also be in attendance. The Appeals Committee will be advised by the Corporate Director of People (or their representative). All relevant parties will be provided with the relevant documentation in advance of the Appeals Committee.
9. Where the proposal is to dismiss, the Executive Objections Procedure will be followed prior to the matter going forward to full Council.
10. On receipt of any objections, it is for the Panel to decide whether they are material and well-founded. If they are, then the Panel will need to consider the effect of the objection and act accordingly. For example, this may require further investigation.
11. Where there are no objections or any objection is deemed as not material or well-founded, the matter will then be considered at full Council, who will vote at a meeting on whether to approve the proposal to dismiss. There must be an interlude of at least 20 working days between the full Council meeting and the date of the original Panel meeting.
12. At their meeting, full Council will consider the original investigation report and the recommendations of the Panel, along with any verbal/written representation from the protected officer. Where the protected officer chooses to present verbally, representatives from the Panel will also be in attendance. All relevant parties will be provided with the relevant documentation in advance of full Council.
13. The decision of Council will be by way of a majority vote and will be final.
14. Where a decision to dismiss is approved by Council, then the protected officer has no further right of appeal.
15. It is in the interests of all parties that the process should be conducted expeditiously, but fairly and that any delays in the procedure are avoided, wherever possible.
16. This process will also be adopted in cases where there are issues in relation to capability, which are not resolved through the provision of additional guidance, training, development and support.

‘Protected Officers’ Disciplinary and Dismissal Procedure Flowchart

The following flowchart provides a summary of the procedure:

Initial Action
The Leader of the Council, Head of Paid Service (where appropriate) and the Corporate Director of People appoints an independent investigator



The independent investigator undertakes an investigation in line with ACAS Code of Practice and produces a report with detailed findings



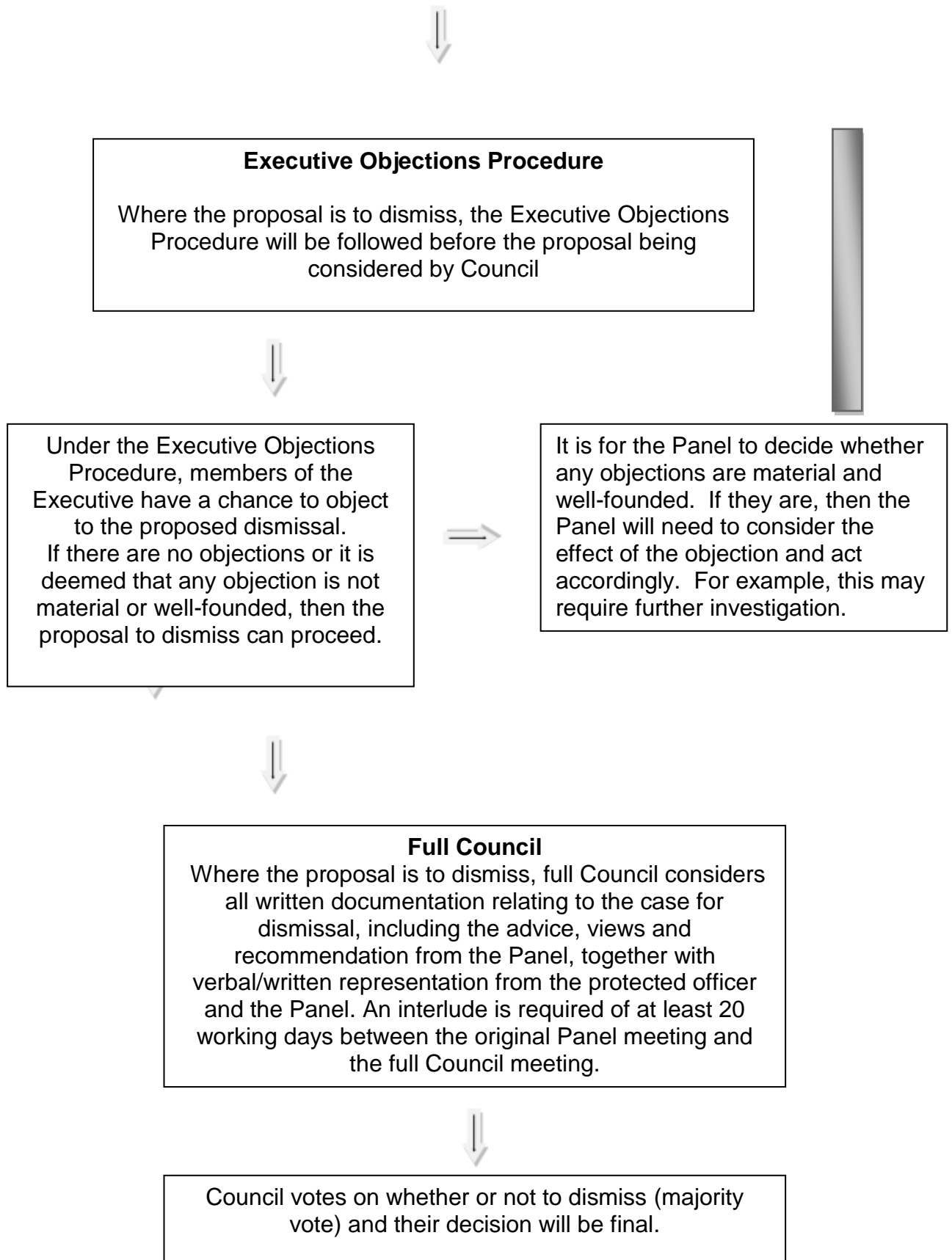
Panel Hearing
A Panel, comprising of 2 independent persons, together with Elected Members who will ordinarily be members of the Employment Committee and the Corporate Director of People (or their representative in an advisory capacity), hears the case, including representations from the protected officer



Any recommendation on no action or action short of dismissal can be confirmed by the Panel without any referral to full Council.



Appeals Committee
The protected officer has a right of appeal against a sanction of action short of dismissal to an Appeals Committee ordinarily made up of Employment Committee members who were not involved in the Panel meeting. The Appeals Committee will review the case and the decision made, together with verbal/written representation from the protected officer and the Panel.



Trafford Council Petition Scheme

The petitions process allows members of the public to have direct influence on the political process and to raise concerns that are important to them.

Members of the public can submit petitions on the following

- Issues relating to the Council's responsibilities.
- Issues which affect the borough of Trafford or its communities, as long as the Council is in a position to exercise some degree of influence.
- Anything relating to an improvement in the economic, social or environmental well-being of the borough to which any of the Council's partners could contribute.

The Council will respond to all the petitions it receives. We will be as flexible as we can when handling your petition so that it is considered quickly and in the most appropriate way.

Essentially there are three types of petitions:

- **“Ordinary” petitions**

These must be signed by at least 50 people but the Council will use its discretion where there are fewer than 50 signatories in cases where there is clear local support for action (e.g. where the residents of a small community have petitioned for traffic calming measures)

- **Petitions requiring debate**

Petitions which contain **300 signatures** or more will be debated by the Executive (or the relevant Committee if the petition does not relate to an Executive function).

Petitions which contain **500 signatures** or more will be debated by full Council

- **Petitions to hold council employees to account**

Petitions which call for evidence from a senior council employee and have at least 1,500 signatures will trigger that response.

1. How do I submit a petition?

Petitions can be sent or presented to the council. All petitions sent or presented to the council will receive an acknowledgement from the council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition.

A petition is defined as a communication in writing which is signed by the appropriate number of qualifying persons or has been created via an e-petition using the

Council's website or other petition website. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to:

Democratic Services
Trafford Council
Talbot Road
Stretford
Manchester
M32 0TH

Or by email democratic.services@trafford.gov.uk

Or via the Council's petition website at www.trafford.gov.uk

Digital petitions created on other petition websites will be accepted so long as Democratic Services are informed about the petition via email or post. The petition must be sent by the petition organiser. Democratic Services must be able to verify that the signatories are in accordance with the requirements of the petition scheme.

If you would like to present your petition to the council, or would like your councillor or someone else to present it on your behalf, please contact Democratic Services on 0161 912 1387 at least 10 working days before the meeting and they will talk you through the process.

Petitions submitted to the council must include a clear and concise statement covering the subject of the petition. It should state

- What action the petitioners wish the council to take
- The name and address and signature of any person supporting the petition (the address can be an address where a signatory lives, works or studies)

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact the first signatories to the petition to agree who should act as the petition organiser.

Petitions must include a signature and the signatory's name and address. This can be an address where the signatory lives, works or studies.

Before submitting a petition you should first check with your local councillor or with the Council to see if the Council is already acting on your concerns and that the Council is the most appropriate body to receive your petition as sometimes your petition may be more appropriate for another public body.

Once a petition has been submitted to Democratic Services, the Council will not accept any updates or additional signatories.

2. Who can submit a petition?

Anyone who lives, works or studies in Trafford, including under 18s, can sign or organise a petition.

3. Are there any petitions which the Council cannot accept?

We believe that the vast majority of petitions we receive will be accepted but in certain circumstances petitions will not be accepted, including:-

- If the petition applies to a planning application, certain licensing matters, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal or a separate complaints process.
- Any petition which we consider to be vexatious, abusive or otherwise inappropriate. We will explain the reasons for this in our acknowledgement of the petition.
- Where a person or organisation (or someone on their behalf) has submitted a petition which is the same or substantially the same as one submitted within the previous 12 months

If we decide that a petition is not acceptable then we will let the petition organiser know our reasons.

If a petition relates to the responsibilities of one of our partners then, within 10 working days of its receipt, the petition will be forwarded to that authority for them to deal with, unless the petition relates to an improvement in the economic, social or environmental well-being of the borough. In those cases the petitions will be considered under the Council's scheme.

It may be inappropriate for the council to deal with certain petitions during periods when it is subject to restrictions immediately before elections or referendums. In these circumstances, the petition organiser will be informed of the date when the petition will be considered, or when material relating to it will be published on the council's website.

4. What will the council do when it receives my petition?

We will acknowledge the petition within 10 working days of receiving it and let the petition organiser know what we plan to do with the petition and when they can expect to hear from us again. To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

If the petition needs more investigation, we will tell you the steps we plan to take.

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

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- carrying out consultation
- holding a meeting with the petitioners
- referring the petition for consideration by the council's overview and scrutiny committee
- writing to the petition organiser setting out our views about the request in the petition

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

Your petition may be submitted to one of the Council's formal member meetings if it has the relevant amount of signatures where elected councillors will decide how to respond to the petition. These meetings will be held in public and petitioners are welcome to attend the meeting to observe the proceedings. The petition organiser will be entitled briefly to address the meeting.

Depending on the subject matter your petition may be submitted to the Council, the Executive, or one of the Council's Overview and Scrutiny Committees*. There are two exceptions to this

- If your petition contains more than 500 signatures then it must be debated by the Council.
- If your petition is asking for a senior council employee to give evidence at a public meeting then it will be considered by one of the Council's Overview and Scrutiny Committees, provided it contains at least 1,500 signatures.

**Overview and scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.*

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

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

5. Debating Petitions

If a petition contains more than 300 signatures it will be debated by the Executive (or the relevant Committee if the petition does not relate to an Executive function).

Petitions which contain **500 signatures** or more will be debated by full Council, which means the issue raised in the petition will be discussed at a meeting which all Councillors can attend. A petition containing at least 1,500 signatures asking for a senior council employee to give evidence at a public meeting will be debated at an Overview and Scrutiny Committee meeting. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.

The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, refer the issue to the Executive (if considered at a meeting other than the Executive) or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision which will also be published on our website.

6. Evidence from senior council employees

Your petition may ask for a senior council employee to give evidence at a public meeting about something for which they are responsible as part of their job. For example, your petition may ask a senior council employee to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision. The petition must relate to the employee's job, it cannot relate to their personal circumstances or character.

If your petition contains at least 1,500 signatures, the relevant employee will give evidence at a public meeting of one of the council's overview and scrutiny committee. This will happen within 30 days of the petition being accepted.

Only the following senior employees of the Council can be called to give evidence

- Chief Executive
- Corporate Director Place
- Corporate Director Governance and Community Strategy
- Corporate Director People
- Corporate Director Children's Services
- Corporate Director Adult's Services
- Corporate Director Finance and Systems

The Overview and Scrutiny Committee may decide that it would be more appropriate for another member of staff to give evidence instead of any person named in the petition – for instance if the person has changed jobs. The Committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting the Corporate Director Governance and Community Strategy up to three working days before the meeting.

After the meeting, the Committee will submit a report to the Executive which will be considered at the next available meeting of the Executive. The petition organiser will receive a copy of this report.

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

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Scrutiny Committee (one of the council's overview and scrutiny committee) review the steps that the council has taken in response to your petition.

The Scrutiny Committee will consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee feel the Council has not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Executive or arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within seven days. The results of the review will also be published on our website.

8. Is there anything else I can do to have my say?

As a Council we try to identify and solve problems at an early stage. We are committed to receiving feedback as this helps us to develop and review services. We recognise that petitions are just one way in which people can let us know about their concerns. There are a number of other ways in which you can have your say including

- Writing to the appropriate Head of Service or Director
- Contacting your local councillor
- Making a complaint through the Council's complaints system