



**GREAT  
YARMOUTH**  
BOROUGH COUNCIL

# CONSTITUTION

Operative: March 2021

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# **PART 1**

## **SUMMARY AND EXPLANATION**

# **GREAT YARMOUTH BOROUGH COUNCIL**

## **CONSTITUTION**

### **1. INTRODUCTION**

The Great Yarmouth Borough Council has agreed a revised Constitution (in accordance with the requirements of the Local Government and Public Involvement in Health Act 2007) which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Whilst some of these processes are required by law, others are matters which the Council has chosen.

The Constitution adopted by the Council follows the Committee model. It came into effect on 16 May 2016 although it largely follows the Constitution operating before.

### **2. HOW THE COUNCIL OPERATES**

The Council is made up of 39 Councillors with one third elected three years in four. Councillors are democratically accountable to the residents of their Wards. Whilst their overriding duty is to the whole community they also have a special duty to all their constituents, including those who did not vote for them.

Councillors, when elected, have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties.

The whole 39 Councillors meet together as a full Council at meetings which are normally open to the public. At such meetings, Councillors determine the Council's overall policies and set the Budget and level of Council Tax each year.

### **3. HOW DECISIONS ARE MADE**

#### **Committee**

Committees take many of the authority's decisions. A Committee is made up of elected Councillors.

Committees must make their decisions in line with the overall policies and budget agreed by Full Council. If they wish to make a decision which is outside the budget or the agreed policy framework then they must refer this to the Full Council for final determination.

#### **4. THE COUNCIL'S STAFF**

The Council employs staff (called Officers) to give advice, implement the decisions made by the elected Councillors, and manage the day to day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Code of Practice governs the relationships between Officers and Councillors.

#### **5. CITIZENS' RIGHTS**

Citizens have a number of rights in their dealings with the Council and these are set out in more detail in the constitution. Some of these are legal rights, whilst others depend on the Council's own processes. Advice on an individual's legal rights can be obtained from the local Citizen's Advice Bureau or from the Council. Where members of the public use specific Council services, for example Council tenants, they have additional rights. These are not, however, covered in the Constitution.

Citizens have a right to:

- Vote at local elections if they are registered
- Contact their local Councillor and the Leader of the Council about matters of concern to them
- Obtain a copy of the Council's Constitution
- Attend meetings of the Council and its Committees except, where, for example, personal or confidential matters are being discussed
- Petition to request a referendum on a mayoral form of Committee
- Participate in the Council's question time.
- Attend meetings of the Committee where issues are being discussed or decisions made
- See reports and background papers, and any record of decisions made by the Council and Committee
- Complain or submit views to the Council using the Council's Comments and Complaints Procedure
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. This action should only be pursued after first using the Council's own Comments and Complaints Procedure
- Complain to the Council's Standards Committee if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct
- Inspect the Council's accounts and make their views known to the external auditor
- Submit petitions, or support petitions, which are then considered in accordance with the Council's Petitions Scheme

The Council welcomes participation by its citizens in its work.

All agendas and minutes of the Council and Committees of the Council, unless containing personal or confidential information are available to all citizens on request.

Similarly, all meetings of the Council and its Committees, unless dealing with personal or confidential information, are open to citizens. Copies of agendas for all such meetings are available in the public seating area of the meeting rooms or alternatively from the Corporate Services Section.



## **PART 2**

# **ARTICLES OF THE CONSTITUTION**

# **ARTICLE 1 - THE CONSTITUTION**

## **1.1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of the Great Yarmouth Borough Council.

## **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- (a) enable the Council to provide an efficient, effective and clear form of leadership to the community, with its long term aim of making the Borough a better place in which to live, work, play and to visit
- (b) (in partnership working with its citizens, businesses and other organisations) help devise and implement policies to reduce unemployment, raise household income, improve people's quality of life, improve people's skills and learning and make the Borough healthier, safer and more attractive
- (c) support the active involvement of citizens in the process of local authority decision making by encouraging them to attend and participate at meetings, to be represented on Partnership Groups and other Forums, and to generally make their views known to the Council using whatever other means are available to them or provided by the Council
- (d) help Councillors represent their constituents more effectively
- (e) enable decisions to be taken efficiently, effectively and without delay
- (f) ensure that the decision makers are clearly and publicly accountable and that their reasons for decisions are explained in full
- (g) ensure that the process for reviewing or scrutinising decisions ensures that no one involved in the making of a decision can take part
- (h) create a powerful and effective means of holding decision makers to public account
- (i) provide the right framework and mechanisms for ensuring that the services provided by the Council are those required by the community, and that the delivery of those services is regularly reviewed and improved.

#### **1.4 Interpretation and Review of Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution.

## ARTICLE 2 – MEMBERS OF THE COUNCIL

### 2.1 Composition and Eligibility

- (a) **Composition** – The Council comprises 39 Members (otherwise called Councillors). One or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State
- (b) **Eligibility** - Only registered voters of the Borough, or those living or working there, will be eligible to hold the office of Councillor.

### 2.2 Election and Terms of Councillors

The ordinary election of a third of all Councillors will be held on the first Thursday in May in each year beginning in May 2016. In 2017 and in every fourth year thereafter, there will be no regular election.

The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 2.3 Roles and Functions of all Councillors

- (a) **Key roles** – All Councillors will:
  - (i) collectively through the full Council meetings be the ultimate policy makers and carry out a number of strategic and corporate management functions
  - (ii) represent their communities and ensure that their communities' views are brought into the Council's decision making process (ie become the advocate of, and for, all the constituents in the Ward they represent)
  - (iii) effectively represent the interest of their Ward and of their individual constituents
  - (iv) respond to enquiries, and representations from all their constituents both fairly and impartially
  - (v) be involved in the Council's decision making process
  - (vi) be available to represent the Council on other bodies including external organisations
  - (vii) work in conjunction with the Council and partners on the various partnership bodies

- (vii) maintain, at all times, the highest standards of conduct and ethics.

**(b) Rights and Duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law
- (ii) Councillors will not make public any information which is confidential or exempt without the consent of Council, or divulge information given in confidence to anyone other than a Councillor or others entitled to know it
- (iii) for these purposes, “confidential” and “exempt” information are defined in the Access to Information rules in Article 26 of this Constitution.

**2.4 Conduct**

Councillors will, at all times, observe the Members’ Code of Conduct set out in Article 42 of the Constitution and take due account of the Protocol on Member/Officer relations also set out in Article 46 of this document.

**2.5 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme as set out in Article 43 of this Constitution.

## ARTICLE 3 - CITIZENS AND THE COUNCIL

### 3.1 Citizens' Rights

Citizens of the Borough have the following rights. (Their rights to information and to participate are explained in more detail in the Access to Information Rules in Article 31 of the Constitution).

- (a) **Voting and Petitions** - Citizens on the electoral roll for the Borough have the right to vote in, and sign a petition to request, a referendum for an elected Mayor form of Constitution
- (b) **Information** - Citizens have the right to:
  - (i) Attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting or part of the meeting, whichever is appropriate, is held in private
  - (ii) see and inspect reports and background papers, and any records of decisions made by the Council and the Committee
  - (iii) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation** - Citizens have the right to ask questions at meetings of the Full Council
- (d) **Comments and Complaints** - Citizens have the right to make comments and/or complaints to:
  - (i) the Council under its Comments and Complaints Scheme
  - (ii) the Ombudsman after using the Council's own Comments and Complaints Scheme
  - (iii) the Standards Committee of the Council about a breach of the Councillors' Code of Conduct.
- (e) **Petitions** - Citizens have the right to submit petitions, or support petitions, which are then considered in accordance with the Council's Petitions Scheme - Article 49.

### 3.2 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

## **ARTICLE 4 - THE FULL COUNCIL**

### **4.1 Policy Framework**

(a) The Policy Framework means the following Plans and Strategies:

Local Plans and Neighbourhood Plans  
Council's Corporate Plan/Vision  
Housing Investment Programme Strategy and HRA Business Plan  
Financial Strategy and Policies  
Asset Management Strategy  
Economic Growth Strategy  
Housing Strategy  
Setting tax base and discounts

**(b) Budget and Financial Policy Matters (“the Budget”)**

This includes:

- the allocation of financial resources to different sources and projects
- proposed contingency funds
- setting the Council Tax
- control of the Council's borrowing requirements
- control of the Council's capital expenditure
- the setting of virement limits.

### **4.2 Functions of the Full Council**

Only the full Council will exercise the following functions:

- (a) adopting and changing the Constitution
- (b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer
- (c) appointing the Mayor, Deputy Mayor and Leader
- (d) agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them
- (e) appointing representatives to outside bodies
- (f) adopting a scheme of allowance for Councillors
- (g) changing the name of the area or granting the Freedom of the Borough
- (h) confirming the appointment of the Head of Paid Service

- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- (j) all other matters which, by law, must be reserved to Council.

#### **4.3 Council Meetings**

There are three types of Council meeting.

- (a) the Annual Meeting
- (b) Ordinary Meetings
- (c) Extraordinary meetings.

These will all be conducted in accordance with the Council Procedure Rules in Article 26 of this Constitution.

#### **4.4 Responsibility for Functions**

The Council will maintain the tables in this Constitution setting out the responsibilities for the Council's functions

#### **4.5 Standing Orders**

The provisions of Part II of Schedule 2 to the Local Authorities (Standing Orders) (England) Regulations 2001 shall apply.

#### **4.6 All functions by or exercised by and or reserved to the Council: -**

- Appointing the Mayor and Deputy Mayor of the Council.
- Appointing the Leader of the Council.
- Agreeing or amending the committee structure, the terms of reference of committees and their size.
- Confirming the appointment of or dismissal of the Head of Paid Service, Monitoring Officer and Section 151 Officer (Section 151 Officer).
- Confirming the appointment of the Independent Person(s).
- Making of a Members Allowance Scheme and amending the same.
- Making a request for single member electoral wards to the Local Government Boundary Commission.
- Resolution to change a scheme for elections.
- Making an order giving effect to the recommendations made in a Community Governance Review.
- Making, revoking or amending the following policies, plans and strategies :-
  - Licensing Authority Policy Statement.
  - Local Plan Documents which together comprise the Development Plan.



- Policies made under the Gambling Act (including any resolution relating to casinos).
- Capital Programme.
- Medium Term Financial Plan.
- Treasury Management Strategy.
- Approval of the Council's corporate plan.
- Setting the Council's Budget and Council Tax
- Fees and Charges Policy
- Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation including bylaws or personal bills.
- Appointment of the Returning Officer and Electoral Registration Officer.
- Adopting and amending Standing Orders, Rules of Procedure, Contract Procedure Rules and Financial Regulations.
- All Functions relating to Elections
- The Functions relating to pensions
- Approval of the authority's statement of accounts, income and expenditure and balance sheet or record of payments and receipts (as the case may be)
- Power to make standing orders
- Power to make standing orders as to contracts
- All matters which by law are reserved to the Council including: -
- Ombudsman reports where there has been a finding of maladministration with injustice and the report has been rejected
- Statutory officer reports of the Monitoring Officer, Section 151 Officer and Head of Paid Service and External Auditor's public interest reports.
- Conferring the title of Honorary Freeman and Honorary Alderman.
- Approving the Annual Pay Policy Statement.
- Changing the name of the Borough.
- Significant changes to the Council's Constitution (other than variations to the Scheme of Delegation which may be approved by committees within their remits and minor and consequential changes to the constitution which are delegated to the Monitoring Officer (see Scheme of Officer Delegation Post).
- Appointment of representatives to outside bodies.
- Consideration of reports from committees, sub-committees, or any other body constituted by the Council.
- To receive the decisions of committees and sub-committees acting under delegated powers for question and comment .
- Making compulsory purchase orders (other than under planning grounds).
- Making recommendations to the Secretary of State on district boundaries, ward boundaries, electoral divisions, ward or polling districts.

- Any other function which must, by law, be exercised by and / or reserved to the full Council.

## ARTICLE 5 – POLICY AND RESOURCES COMMITTEE

5.1 Key strategic decisions (other than those which must be determined by the Council) including all decisions which have a major impact on a number of Council services or on the Council as a whole and decisions which are significant in terms of impact on the Council's revenue or capital (to be determined by The Head of Paid Service and/or Section 151 Officer).

- All local authority licensing functions and ancillary matters other than those falling within the remit of the Licensing Committee
- Health and safety functions (otherwise than as employer)
- Making recommendations to the Council on the adoption of bylaws
- Functions relating to parishes, elections and electoral registration
- Functions relating to Polling Station reviews
- Functions relating to Community Governance Reviews
- Making recommendations to Council relating to the name and status of areas and individuals
- Making recommendations to Council on the promotion or approval of a local bill.
- Making recommendations to the Council as to recommendations to the Secretary of State on district boundaries, ward boundaries, electoral divisions, wards or polling districts
- To make recommendations to Council on the budget insofar as it impacts on the role and remit of the Committee.
- Making compulsory purchase orders under planning grounds and/or recommending to Council the making of compulsory purchase orders
- Appropriation of land for planning purposes
- Receiving reports from outside bodies
- External Relationships
- Public Relations
- Policy development, implementation and review in respect of all areas falling within the remit of the committee
- Developing and reviewing the Local Development Framework
- Development Plan Documents and Supplementary Planning Documents.
- Developing and adopting policies and procedures to underpin the Local Plan

5.2 Formulation of key strategic policies to be adopted by the Council (except those which are reserved to Council for approval) including:-

- Commissioning Framework
- Annual Budget Strategy
- Budget and Council Tax Policy
- General Fund Balances and Reserves Policy

- Asset Management Strategy.
- Corporate Asset Utilisation and Disposal Strategy.
- Consultation and Communication Strategy.
- Equalities and Diversity Policy.
- Strategy relating to HRA.
- Managing and monitoring the Council's Capital Programme.
- Approving resources for the appointment of a designated independent person.
- Approving human resources policies
- Treasury Management Strategy and Annual Report

5.3 Decision making where decisions fall outside the scheme of delegation in respect of the following: -

- Procurement Policies
- Transformation Programmes.
- Member Development.
- Member and Civic Services.
- Strategic Risk Management.
- Audit Issues (other than matters falling within the remit of the Audit and Risk Committee).
- Major Projects.
- Strategic Commissioning including Decommissioning.
- Asset Management.
- Human Resources
- Democratic Services.
- Financial Services
- Revenues and Benefits.
- Performance Management.
- Administrative Services.
- Procurement Decisions over £100,000

5.4 Approval of payments or other benefits for maladministration under s92 of the Local Government Act 2000, except where it relates to a matter falling within the remit of the Planning Committee or is dealt with by Officers acting under delegated powers.

5.5 To approve the write-off of any individual outstanding debt above the delegated limit of £10,000.

- 5.6 Making recommendations to the Council on standing orders relating to contracts and financial regulations.
- 5.7 All cross cutting matters across the Council and any matter/issue not expressly delegated to another Committee.
- 5.8 Receiving reports from outsidebodies.
- 5.9 The Committee may securitize and review decisions made or actions taken by Committees in so far as they have a direct impact on the role or functions of the Committee.
- 5.10 Determining the Council's strategic approach to StrategicPartnerships.
- 5.11 Performance Management:-
  - Overall responsibility for managing and monitoring council performance against approved estimates of revenue expenditure and income
  - Overall responsibility for monitoring council performance against locally set performance indicators

5.12 In relation to Equinox Ltd - to exercise the Council's shareholder function as shareholder which shall include:

- 1) providing the Council's direction and consent for investment and any other decisions of the Company through the approval of its Annual Business Plan and any interim amendments
- 2) review and revision of the Council's 'Purposes for Participation in the Company' (Purposes')
- 3) appointing and removing directors to the Company
- 4) carrying out performance review in relation to the Council's Purposes and corporate strategies and the Company's Annual Business Plan
- 5) providing the Council's consent in accordance with the Annual Business Plan and any other decisions of the Company requiring the Council's authorisation
- 6) receiving the Annual Business Report from the Directors setting out annual business objectives including the expected returns from the Company
- 7) receiving a quarterly report from the Directors including management accounts, performance against the Council's Purposes and the key performance indicators or other targets identified in the Annual Business Plan
- 8) receiving at every meeting an up to date progress report, including financial overview including cash flows, balance sheet details, with any significant event to be highlighted, notification of any key commercial and legal risks, including an updated version of the Company's risk register as necessary.

5.13 Membership

- The Leader of the Council (Chair)
- Chair of Housing and Neighbourhoods Committee,
- Chair of Environment Committee
- Chair of Economic Development Committee
- 9 other members appointed by Council under the Political Balance Rules.

## ARTICLE 6 – THE ECONOMIC DEVELOPMENT COMMITTEE

- 6.1 Developing and adopting policies in accordance with the Council's leisure and culture strategy including: -
- Arts and Cultural Strategy
  - Concessionary Pricing Strategy
  - Museums and Heritage Strategy
  - Economic Growth Strategy
- 6.2 The Committee may securitize and review decisions made or actions taken by Committees in so far as they have a direct impact on the role or functions of the Committee.
- 6.3 The Committee will where appropriate consider referrals of items of business from the Chair of the Policy and Resources Committee
- 6.4 Decision making where decisions fall outside the scheme of delegation in respect of the following: -
- Economic Development
  - Land Charges
  - Business Growth
  - Town Centre Regeneration
  - Tourism
  - Transport
  - Markets and Street Trading
  - Car Parks
  - Operation and Management of Industrial Units
  - Civil Parking Enforcement
  - Acquisition and Disposal of Industrial Units
  - Formulation of the Culture Strategy and to recommend to Council for adoption
  - Museums and Collections
- 6.5 Policy Review and Development
- The committee may hold enquiries and investigate the available options for future direction in policy development

66 Performance Management

Monitoring performance against approved estimates of revenue expenditure and income for services falling within its remit.

Monitoring Service Performance against agreed targets.

67 Membership

13 members appointed by Council under the Political Balance Rules

## ARTICLE 7 – THE ENVIRONMENT COMMITTEE

- 7.1 Policy development, implementation and review in respect of all areas falling within the remit of the committee including making recommendations to Policy and Resources Committee or Council as appropriate in respect of key strategic policies impacting on the role and function of the committee.

The committee may hold enquiries and investigate the available options for future direction in policy development

The committee may scrutinize and review decisions made or actions taken by Committees in so far as they have a direct impact on the role or functions of the Committee.

- 7.2 Developing policies, procedures and protocols in relation to the Council's emergency plan and responses to flooding (other than planning issues).

- 7.3 Decision making where decisions fall outside the scheme of delegation in respect of the following: -

- Emergency Planning
- Shoreline Management Plan
- Refuse Collection
- Cleansing
- Recycling
- Litter Collection
- Street Cleaning
- Grounds Maintenance
- Public Toilets and Amenities
- Trade Waste
- Environmental Health including:-
  - Food Law Enforcement Service Plan
  - Food Hygiene
- Environmental Protection and Improvement
- Health and Safety
- Dog and Pest Control
- Cemeteries
- Commons regulation and town and village greens
- Contaminated land and statutory nuisances (excluding policy issues)
- The passing of a resolution that schedule 2 to The Noise and Statutory Nuisance Act 1993 should apply in the authority's area
- The power to apply for an enforcement order against unlawful works on registered common land under Section 41 of the Commons Act 2006.
- The power to protect unclaimed registered common land and



unclaimed town or village greens against unlawful interference under Section 45(2)(a) of the 2006 Act (Section 45 re-enacted, with amendments, the more familiar Section 9 of the Commons Registration Act 1965 with effect from 1st October 2006).

- The power to institute proceedings for offences in respect of unclaimed land under Section 45(2)(b) of the 2006 Act.
- The power to make a closing order on a takeaway food shop
- Duties of the local authority under the Coastal Protection Act 1949 and other Coastal Protection Legislation.

74 Receiving reports from outsidebodies

75 External Review

The committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role or functions of thecommittee:-

- Environment Agency and other statutory bodies (in relation to flooding and other emergencies)

76 Performance Management

Monitoring performance against approved estimates of revenue expenditure and income for services falling within its remit.

Monitoring service performance against agreed targets

7.7 Membership

13 members appointed by Council under the Political Balance Rules

## **ARTICLE 8 - HOUSING AND NEIGHBOURHOODS COMMITTEE**

- 8.1 Policy development, implementation and review in respect of all areas falling within the remit of the committee including making recommendations to Policy and Resources Committee or Council as appropriate in respect of key strategic policies impacting on the role and function of the committee.

The committee may hold enquiries and investigate the available options for future direction in policy development

The committee may scrutinize and review decisions made or actions taken by Committees in so far as they have a direct impact on the role or functions of the Committee.

including:-

- Community Safety Strategy
- Health and Well Being Strategies
- Sports/Physical Activity Development Plans

- 8.2 Decision making where decisions fall outside the scheme of delegation in respect of the following: -

- Formulating the Council's housing capital programme and recommending the same to Council for approval.
- Formulating, monitoring and reviewing the Council's Housing Revenue Account and recommending the same to Council for approval.
- HRA Business Plan (including the Asset Management Strategy and Delivery Plan);
- The level and use of surpluses and reserves within the HRA
- Enforcement Strategy
- Designation of conservation areas and areas of archaeological interest
- Assets of Community Value
- Anti-Social Behaviour Strategy
- Domestic Abuse Strategy
- CCTV Strategy
- Housing Needs Assessment
- Anti-Social Behaviour Policy (housing)
- Community Safety
- Community Resilience
- Troubled Families
- Child and Adult Safeguarding

- Voluntary Sector
- Health and Wellbeing
- Social inclusion (young people, older people, debt and rural issues)
- Community Cohesion
- Police
- Voluntary Sector
- Sports Development
- Parks and Open Spaces
- Formulation of the Sport, Play and Leisure Strategy and to recommend to Council for adoption
- Indoor sports and fitness

83 Performance Management

Monitoring performance against approved estimates of revenue expenditure and income for services falling within its remit.

Monitoring service performance against agreed targets

84 Membership

13 members appointed by Council under the Political Balance Rules

## ARTICLE 9 - DEVELOPMENT CONTROL COMMITTEE

91 Developing and adopting policies in accordance with the Council's strategies, the Development Control Committee shall perform all the planning and highway functions of Great Yarmouth Borough Council.

92 Decision making where decisions fall outside the scheme of delegation in respect of the following: -

- Building Control matters
- Planning (budget, staffing and administration)
- Removal of permitted development rights through Article 4 Direction
- Functions of the Council relating to complaints regarding high hedges contained in part 8 of the Anti-Social Behaviour Act 2003.

93 Delegation to Officers

**The Development Director** and anyone who has written authority from him/her to act can discharge any function allocated to the Development Control Committee except:

- (a) where the proposal is for the residential development of a site of one hectare or more unless the proposal involves the development of 25 or less dwelling units and/or
- (b) where the proposal requires the submission of an environmental statement and/or
- (c) where the proposal involves the winning or working of minerals or relates to waste disposal and/or
- (d) where the Development Director declines to exercise his/her delegated authority

94 Quorum

The quorum of the Committee shall be one third (if necessary rounded up to the nearest whole number) of the number of Members appointed to the Committee.

95 Rules of Debate

The Chair (or other person presiding at the meeting) shall determine (on the advice of Officers, if necessary) procedure and rules of debate at the meeting provided that in doing so he/she takes into account the Council Procedure Rules as appropriate.

96 Performance Management

Monitoring performance against approved estimates of revenue expenditure and income for services falling within its remit.

Monitoring service performance against agreed targets

97 Membership

13 members appointed by Council under the Political Balance Rules

## **ARTICLE 10 - LICENSING COMMITTEE**

- 10.1 Developing and adopting policies in accordance with the Council's strategies, the Licensing Committee shall perform the licensing, gambling, registration and public safety functions of Great Yarmouth Borough Council.
- 10.2 Decision making where decisions fall outside the scheme of delegation, Delegation arrangements for the Council's responsibilities under the Licensing Act 2003 and the Gambling Act 2005 are set out below.

## Licensing Act 2003

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for personal licence		If a police objection made	If no objection made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club premises Certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation Made	If no relevant representation made
Application to vary premises licence/club registration Certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police representation	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police representation	All other cases
Application for Interim Authorities		If a police representation	All other cases
Application to review premises licence/club premises Registration		All cases	
Decision on whether an objection or complaint is irrelevant, frivolous, vexatious, etc			All cases, initially with discretion to refer to Sub-committee
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a police representation to a temporary event notices		All cases	
Application of special policy relating to cumulative impact	All cases		

## Gambling Act 2005

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>LICENSING COMMITTEE/ SUB-COMMITTEE</b>	<b>OFFICERS</b>
Three year licensing policy	X		
Policy to permit casino	X		
Fee Setting - when appropriate			X (with Committee approval)
Application for a premises licence – new casino, if applicable	X	X (first stage)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X



<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>LICENSING COMMITTEE/ SUB-COMMITTEE</b>	<b>OFFICERS</b>
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

### 10.3 Delegation to Officers

10.3.1 The Head of Environmental Services and anyone who has written authority from him/her to act can discharge any function allocated to the Licensing Committee in relation to matters within his/her terms of appointment or which fall within his/her Service Performance Plan or within the service and responsibilities which are from time to time allocated to him/her except:

- (a) where he/she is minded to:
- refuse to grant a licence or;
  - revoke a licence or;
  - refuse to renew a licence (save for revocation of refusal to renew Hackney Carriage or Private Hire drivers licenses which the Licensing and Elections Manager may do in the interest of public safety) and/or
- (b) where there is an objection which cannot be resolved to his proposal to grant or renew a licence and/or
- (c) where the Head of Environmental Services declines to exercise his/her delegated authority.

### 10.4 Quorum

The quorum of each Committee shall be one third (if necessary, rounded up to the nearest whole number) of the number of Members appointed to the Committee.

### 10.5 Rules of Debate

The Chair (or other person presiding at the meeting) shall determine (on the advice of Officers, if necessary) procedure and rules of debate at the meeting provided that in doing so he takes into account the Council Procedure Rules as appropriate.

### 10.6 Regulatory Committees acting as Tribunals

Where the Regulatory Committee, or an Officer, is acting as a tribunal, or in a quasi-judicial manner, or is determining/considering the civil rights or obligations or the criminal responsibility of any person, then a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights will be followed.

#### 10.7 Access to Information

The Access to Information Rules apply to Regulatory Committees save as varied by the provisions of the Licensing Act 2003 and the Gambling Act 2005.

#### 10.8 Performance Management

Monitoring performance against approved estimates of revenue expenditure and income for services falling within its remit.

Monitoring service performance against agreed targets

#### 10.9 Membership

13 members appointed by Council under the Political Balance Rules

## **ARTICLE 11 – THE AUDIT AND RISK COMMITTEE**

- 11.1 The purpose of the Audit and Risk Committee is to monitor governance, risk management and internal control, to ensure these are efficient and effective. This is achieved through key items received by the Committee in relation to internal audit, external audit, key finance items, governance reviews and risk management reporting.
- 11.2 To consider and approve annually the Internal Audit Strategic and Annual Plans, and to monitor subsequent performance against these plans.
- 11.3 To consider a report from internal audit on management progress made in the implementation of agreed recommendations.
- 11.4 To consider and approve the Head of Internal Audit's annual report and opinion, and summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance, risk management and control arrangements.
- 11.5 To satisfy itself that the system of internal control has operated effectively throughout the year.
- 11.6 To consider and approve the appointment of the External Auditor.
- 11.7 To consider the audit plans of the External Audit Auditor and the subsequent reports and letters, including the Annual Letters and reports.
- 11.8 To comment on the scope and depth of Internal and External Audit work in addressing the authority's significant risks and reviewing the authority's programme and processes for achieving value for money.
- 11.9 To review and approve the Annual Statement of Accounts and the Annual Governance Statement, specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- 11.10 To monitor the effective development and operation of Risk Management in the Council through considering the Risk Management Framework and the Corporate Risk Register.
- 11.11 Monitoring Council policies on whistle-blowing and the antifraud and corruption strategy and the Council's complaints process.
- 11.12 To consider the extent of the Council's compliance with its own and other published financial standards and controls.
- 11.13 To commission ad-hoc work from Internal and External Audit.

- 11.14 To review any issue referred to it by the Chief Executive, a Director or any council body.
- 11.15 To hold annual private discussions with the Head of Internal Audit and the External Audit to review working relationships with Auditees, etc.
- 11.16 To assess the Committee's own effectiveness on an annual basis.
- 11.17 To act as a point of strategic leadership and support regarding Business Continuity and receive recommendations and assessments from the Business Continuity Workgroup.
- 11.18 Jointly with the Standards Committee, to maintain an overview of the Council's constitution in particular with respect to the risk management and financial control environment.
- 11.19 The promotion and maintenance of high standards of conduct within the Council
- 11.20 Membership

5 members appointed by Council under the Political Balance Rules

## **ARTICLE 12 - THE STANDARDS COMMITTEE**

12.1 The Council will establish a Standards Committee.

12.2 Decision making where decisions fall outside the scheme of delegation in respect of the following: -

- (a) promoting and maintaining high standards of conduct by Councillors, and co-opted members
- (b) assisting the Councillors and co-opted members to observe the Members' Code of Conduct
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct.
- (d) monitoring the operation of the Members' Code of Conduct
- (e) advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct
- (f) granting dispensations to Councillors and co-opted members from requirements relating to disclosable pecuniary interests set out in the Members' Code of Conduct
- (g) dealing with complaints of breaches of the Code of Conduct in accordance with the councils agreed arrangements set out below (including consideration of reports into breaches of the Code)
- (h) the exercise of (a) to (g) above in relation to the Parish Councils in the Borough and the members of those Parish Councils
- (i) overview of the handling of complaints and Ombudsman investigations

12.3 Membership

- 5 Councillors appointed by Council under the Political Balance Rules.
- two co-opted (non-voting) members of a Parish Council wholly or mainly in the Council's area (Parish members)

NB. An independent person is appointed by the full council to act as an impartial adviser on code of conduct complaints.

## **ARTICLE 13 – APPEALS COMMITTEE**

131 To deal with all appeals relating to Housing and staffing matters to which there is a right of appeal to elected members (where there is no express right of appeal to members, there will be a presumption that any appeal will be to the appropriate officer).

132 Membership

A panel of 8 members. appointed by Council under the Political Balance Rules

**ARTICLE 14 – NOT CURRENTLY IN USE**

**ARTICLE 15 – NOT CURRENTLY IN USE**



**ARTICLE 16 – NOT CURRENTLY IN USE**

**ARTICLE 17 – NOT CURRENTLY IN USE**

## **ARTICLE 18 – EMPLOYMENT COMMITTEE**

### **18.0 TERMS OF REFERENCE OF EMPLOYMENT COMMITTEE**

- 18.1** Except to the extent delegated to Chief Officers in accordance with the Officer Employment Procedure Rules set out on Part 45 of the Constitution, to determine the terms and conditions on which staff hold office (including procedures for their dismissal).
- 18.2** To be responsible for the appointment of the Head of Paid Service, statutory and non-statutory Chief Officers and Deputy Chief Officers (all as defined in the Local Government and Housing Act 1989). This power includes the establishment of ad hoc Appointment Panels to carry out this function.
- 18.3** To be responsible for taking disciplinary action in respect of the Head of Paid Service in accordance with the procedure required by the Officer Employment Procedure Rules.
- 18.4** To designate an officer as Head of Paid Service (subject to approval by the full Council) and to provide staff etc. for that officer
- 18.5** To designate an officer as the Monitoring Officer and to provide staff etc. for that officer.
- 18.6** To make arrangements for the proper administration of the Council's financial affairs including the appointment of the Chief Finance Officer.
- 18.7** To designate the Council's "Proper Officers".
- 18.8** Consider appeals against disciplinary decisions, unresolved grievances and grading appeals from employees (where specified in the relevant policy).
- 18.9** Membership – 7 Members appointed by Council under the political balance rules.

**ARTICLE 19 – NOT CURRENTLY IN USE**

**ARTICLE 20 – NOT CURRENTLY IN USE**

## **ARTICLE 21 - CHAIRING THE COUNCIL**

### **21.1 Role and Function of the Mayor**

The Mayor, and in his/her absence, the Deputy Mayor, will have the following roles and functions:

#### **Ceremonial Role**

##### **Chairing the Council meeting.**

The Mayor (and Deputy Mayor) will be elected annually and will have the following responsibilities:

- to uphold and promote the purposes of the Constitution, and to interpret the Constitution, when necessary
- to preside over meetings of the Council so that its business can be carried out efficiently, paying due regard to the rights of Councillors and the interest of the community
- to ensure that the Council meeting is a Forum for the debate of matters of concern to the local community.
- to promote public involvement in the Council's activities
- to be the conscience of the Council (moral sense of right and wrong)
- to attend such civic and ceremonial functions as the Council and he/she determines appropriate

## **ARTICLE 22 - LEADER OF THE COUNCIL**

### **22.0 Introduction**

As the Council operates a Committee System, no formal legal powers and duties are vested in the Leader under the Local Government Act 1972 or the Local Government Act 2000, However, in practice, all local authorities need to appoint a Leader, who will hold the most significant elected Member role within the Council.

The Leader will be the political head of the Council and the focus for policy direction and community development and also the chief advocate and ambassador for the whole of the Borough.

### **22.1 Appointment of Leader**

22.1.1 The Council's Procedure Rules in this Constitution provide for the Full Council to appoint a Leader of the Council.

The appointment is made at the Council's annual general meeting and the appointment is made for the subsequent Council year.

The person appointed by Council as Leader will automatically be appointed as the Chair of the Policy and Resources Committee.

If the Council does not appoint a Leader, the Leader of the largest political group becomes the Leader. If two or more groups have equal number of members then the leader will be chosen by lot.

In the event of a vacancy arising for the position of Leader, the Chief Executive Officer will convene a meeting of the Full Council at the earliest opportunity so that a new Leader can be appointed.

22.1.2 Once appointed, the Leader will hold office until the next Annual General Meeting unless he/she:-

- (a) resigns from the office;
- (b) is no longer a member of the Council;
- (c) is removed from office by resolution of the Council

22.1.3 The Full Council will also appoint at its AGM a Deputy Leader, who is able to exercise the functions of the Leader when he or she is unavailable, or where in the opinion of the Chief Executive Officer, the Leader is incapacitated for such a period of time that the efficient operation of the Council would be significantly impaired.

22.1.4 The provisions in 22.1.2 also apply to the position of Deputy Leader.

## **22.2 Role and Function of the Leader**

22.2.1 To provide a focal point for political leadership and strategic direction for the Council.

22.2.2 To represent the interests of the Council in circumstances where that is necessary.

22.2.3 To ensure effective Corporate Governance.

22.2.4 Promote high standards of corporate governance and ethical conduct throughout the Council including working with all political groups to seek to achieve, where possible, cross party co-operation.

22.2.5 Promote and maintain professional working relationships and mutual respect between all Members and officers.

22.2.6 Work across the Council, particularly with the Chairs and Vice-Chairs of its Committees and Sub-Committees, and to be responsible for the development and implementation of the Council's strategic vision for the future, policy framework, budgets and other strategies.

22.2.7 Act as Chair of the Policy and Resources Committee fulfil the role of Leader at full Council meetings and carry out as necessary the other functions specified in the Constitution.



## **ARTICLE 23 - JOINT ARRANGEMENTS**

### **23.1 Joint Arrangements**

The Council has made joint arrangements with one or more other local authorities under Section 101 (5) of the Local Government Act 1972 for the exercise of certain of its functions. These arrangements are described below

### **23.2 Joint Committees**

The Council also appoints with those other authorities Joint Committees to exercise these functions. The membership, terms of reference and functions of these Joint Committees and the rules governing the conduct and proceedings of their meetings are also described below.

### **23.3 Delegation**

The arrangements with the Borough Council of King's Lynn and West Norfolk in respect of the civil enforcement of parking contraventions involves the delegation of responsibility for off-street penalty charge processing and appeals (Traffic Management Act 2004) to the Borough Council of King's Lynn and West Norfolk.

### **DESCRIPTION OF JOINT ARRANGEMENTS**

- (1) The Council has established the joint arrangements described below and for this purpose has joined in appointing the following Joint Committees: -

Norfolk Joint Museums Committee  
Norfolk Records Committee

each of which exercise functions of the Council under Section 101 (5) of the Local Government Act 1972.

- (2) The membership, terms of reference and functions of the Joint Committees and the rules governing the conduct and proceedings of their meetings and the public's right of access to these meetings are set out below:-

#### **a) Norfolk Joint Museums Committee**

- (i) Membership

Norfolk County Council, Breckland District Council, Broadland District Council, Great Yarmouth Borough Council, King's Lynn and West Norfolk Borough Council, North Norfolk District Council, Norwich City Council, South Norfolk District Council

The County Council appoints 9 members, Norwich City Council 3 members and the remaining Councils 1 member each.

This Committee has also established Area Committees for Breckland, Great Yarmouth, King's Lynn and West Norfolk, North Norfolk and Norwich.

The Chair and Vice-Chair of the Joint Museums Committee shall be ex-officio, non-voting members of the Area Committees. The Chair and Vice-Chairs of the Area Committees must be voting members of the Joint Museums Committee.

#### (ii) Terms of Reference

The Joint Museums Committee is responsible for:-

- the effective operation of the Norfolk Museums Service
- advising all the participating Councils on the strategic framework for museums in Norfolk
- agreeing policies for the Norfolk Museums Service in accordance with national and local guidelines
- agreeing an annual budget for the Museums Service

The Area Committees are each responsible for:-

- advising the Joint Committee on museums issues within their area
- agreeing and reviewing on a regular basis a museums strategy for their area
- developing and agreeing a yearly action plan
- advising on the terms of any service level agreement with the Norfolk Museums Service for the provision of museums services within their area

#### (iii) Functions

The Joint Museums Committee exercises the functions of the participating local authorities under Section 12 of the Public Libraries and Museums Act 1964 with regard to the provision and maintenance of museums and art galleries in their areas, except to the extent specifically provided for in the current agreement constituting the Committee dated 6 January 1999.

#### (iv) Rules governing the conduct and proceedings of meetings

The conduct and proceedings of meetings of the Joint Museums Committee are governed by the rules relating to meetings of Norfolk County Council Committees.

The standing orders of the relevant District Council apply to meetings of the Area Committees.

#### (v) Rules relating to access to meetings

The right of the public to attend meetings of the Joint Museums Committee are set out in paragraph 2 of the Access to Information Procedure Rules of Norfolk County Council.

### **b) Norfolk Records Committee**

#### (i) Membership

Norfolk County Council, Breckland District Council, Broadland District Council, Great Yarmouth Borough Council, King's Lynn and West Norfolk Borough Council, North Norfolk District Council, Norwich City Council, South Norfolk District Council

The County Council and the City Council appoints 3 members each and the remaining District Councils 1 member each. There are also non-voting members as follows:

Custos Rotolorum

A representative of the Bishop of Norwich

A representative of the Norfolk Records Society

3 co-opted members

(ii) Terms of Reference

The Norfolk Records Committee has the responsibility for carrying out the functions of the participating local authorities under the Local Government (Records) Act 1962 and for the control of the Norfolk Records Office with a view to ensuring as far as possible that:-

a) storage and maintenance facilities are provided to it for archives relating to or deriving from the areas of the participating local authorities; and

b) there is at the Record Office an adequate means of reference to the archives and facilities are provided for the public to inspect and take copies of deposited documents

(iii) Functions

The Norfolk Records Committee exercises functions of the participating local authorities under the Local Government (Records) Act 1962.

(iv) Rules governing the conduct and proceedings of meetings

The conduct and proceedings of meetings of the Norfolk Records Committee are governed by the rules relating to the meetings of Norfolk County Council Committees.

(v) Rules relating to access to meetings

The rights of the public to attend meetings of the Norfolk Records Committee are set out in paragraph 2 of the Access to Information Procedure Rules of Norfolk County Council.

## ARTICLE 24 - OFFICERS

24.1 (a) **General** - The Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions

(b) **Chief Officers** – The Council will engage persons for the following posts:

**Chief Executive (and Head of Paid Service)**

- Overall corporate management and operational responsibility (including overall management responsibility for all others)
- Provision of professional advice to all parties in the decision-making process
- Together with the Monitoring Officer, responsibility for a system of record keeping for all of the Council’s decisions
- 
- Representing the Council on partnership and external bodies (as required by Statute or the Council).

**Directors**

- The Council will appoint Directors who may take such decisions as relate to their role and responsibilities including expenditure in accordance with the delegated expenditure at paragraph 25.8 of the Constitution.

(c) **Head of Paid Service, Monitoring Officer and Section 151 Officer**  
The Council will designate the following posts as shown:

Post	
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Section 151 Officer	Chief Financial Officer

Such posts will have the functions described in 24.2 - 24.4 below

The Corporate Services Manager will act as Deputy Monitoring Officer.

(d) **Structure** - The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing

the Management Structure and Deployment of Officers. This is set out In Article 40 of this constitution.

## **24.2 Functions of the Head of Paid Service**

- (a) **Discharge of Functions by the Council** - The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers
- (b) **Restrictions on Functions** - The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant

## **24.3 Functions of the Monitoring Officer**

- (a) **Maintaining the Constitution** - The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public. The Monitoring Officer will be authorised to make such changes as are necessary to reflect alterations in the Council's management structure and changes in the law insofar as such changes are consistent with Council policy. Any other change to the Constitution will only be approved by the Full Council after consideration by the Constitutional Working Party.
- (b) **Ensuring Lawfulness and Fairness of Decision Making** - After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council, or to the Committee in relation to a Committee function, if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered
- (c) **Supporting the Standards Committee** - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee
- (e) **Conducting Investigations** - The Monitoring Officer will arrange for investigations into alleged breaches of the Members' Code of Conduct to take place where appropriate and make reports or recommendations in respect of them to the Standards Committee
- (f) **Proper Officer for Access to Information** - The Monitoring Officer will ensure that Council and Committee decisions, together with the reasons for those decisions and relevant Officer reports and background papers, are made publicly available as soon as possible

- (g) **Advising whether Committee Decisions are within the Budget and Policy Framework** - The Monitoring Officer will advise whether decisions of the Committee are in accordance with the budget and policy framework
- (h) **Providing Advice** - The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors
- (i) **Restrictions on Post** - The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

#### **24.4 Functions of the Section 151 Officer**

- (a) **Ensuring Lawfulness and Financial Prudence of Decision Making** – After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully
- (b) **Administration of Financial Affairs** – The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council
- (c) **Contributing to Corporate Management** – The Section 151 Officer will contribute to the Corporate Management of the Council in particular through the provision of professional financial advice
- (d) **Providing Advice** – The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles
- (e) **Giving Financial Information** – The Section 151 Officer will provide financial information to the media, members of the public and the community.

#### **24.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## **24.6 Conduct**

Officers will comply with the Officers' Code of Conduct and will take due account of the Protocol on Officer/Member Relations, both of which are set out in Article 46 of this Constitution.

## **24.7 Employment**

The recruitment, selection and dismissal of Officers will comply with the Councils standing orders and all legal requirements

## **24.8 "Proper Officer" Provisions**

Local Government legislation from time to time requires local authorities to appoint "proper Officers" for specific purposes. The Chief Executive Officer, Monitoring Officer and Finance Director (Section 151 Officer) are all designated by the Council as such proper Officers.

## **24.9 Officer Titles**

Where a particular post is referred to in this Constitution and the post is either abolished or the title changed the officer who takes over responsibility for the function in question shall be the appropriate officer to act in accordance with the Constitution.

## **ARTICLE 25 - DECISION MAKING**

### **25.1 Responsibility for Decision Making**

The Council will issue and keep up-to-date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions.

### **25.2 Principles of Decision Making**

All decisions of Council will be made in accordance with the following principles:

- to provide high quality services to meet the community's needs which are cost effective and offer best value
- proportionality, that is that the action will be proportionate to the desired outcome
- due consultation and the taking of professional advice from Officers
- respect for human rights
- a presumption in favour of openness
- clarity of aims and desired outcome
- an explanation of all the options considered and full reasons for the eventual decision.

### **25.3 Types of Decisions**

- (a) **Decisions taken by Full Council** - Decisions relating to the functions listed in Article 4.2 will be made by full Council and not delegated
- (b) Decisions taken by Committee
- (c) Decisions taken by Officers

### **25.4 Decision Making by the Full Council**

The Council meeting will follow the Council Procedure Rules set out in Article 26 of this Constitution.

### **25.5 Decision Making by Committees and Sub Committees Established by the Council**



Other Council Committees and Sub Committees will follow those parts of the Council Procedure Rules set out in Article 31 of this Constitution as apply to them.

## 25.6 Escalation

Any decision maker (Committee, sub-committee or officer) may, rather than taking a decision delegated to it, refer the decision upwards (escalate) to the delegating body where:-

- The decision has a particular significance of importance which makes it appropriate to be escalated
- The decision involves a point of exceptional political controversy
- The decision is the subject of particular public interest or scrutiny
- Where representations have been made to, and accepted by, the decision taker that it should so be escalated
- It appears in the public interest so to do.

## 25.7 Decision Making by Council Bodies Acting as Tribunals

The Council, Committee or Officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## 25.8 Expenditure thresholds

The expenditure limits are as outlined below and should be in consultation with the Section 151 Officer and apply to revenue, capital and reserves:

Amount	Responsibility for Approval
Up to and including £10,000 (within budget/service headings of responsibility)	Heads of Service
Up to and including £50,000 (within and between service headings)	Chief Executive, Directors and Section 151 Officer
£50,000 to £100,000	Relevant Service Committee
£50,000 to £200,000	Economic Development Committee
Over £100,000	Policy and Resources Committee

## **ARTICLE 26 - FINANCE, CONTRACTS AND LEGAL MATTERS**

### **26.1 Financial Management and Contracts**

The management of the Council's financial affairs will be conducted in accordance with the Constitution and Financial and Contract Procedure Rules set out in Article 32 of this Constitution. If there is any conflict between these Rules and the main body of the Constitution, the provisions in the main body of the Constitution will prevail.

- 26.2 The Monitoring Officer (and any person authorised by him) is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or to protect the Council's interests. In addition, Directors (and any persons authorised by them) are authorised to institute legal proceedings in respect of matters falling within their areas of responsibility.

## **ARTICLE 27 - REVIEW AND REVISION OF THE CONSTITUTION**

### **27.1 Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

The Monitoring Officer's key role is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

1. observe meetings of different parts of the Member and Officer structure
2. undertake an audit trail of a sample of decisions
3. record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders and
4. compare practices in this authority with those in other comparable authorities or national examples of best practice.

### **27.2 Changes to the Constitution**

**Approval** - Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer and the Constitutional Working Party.

### **27.3 Terms of Reference of the Constitutional Review Working Party**

#### **27.3.1 Composition**

(a) Membership – to be determined by Full Council

(b) Officers - meetings will be supported by the Head of Paid Service, Monitoring Officer, Corporate Services Manager and any other Officer as required

#### **27.3.2 Role and Function**

(a) The Constitutional Review Working Group shall report its work to Full Council

(b) It will set its own work programme save the following bodies can request that it considers a particular item of work:-

- Full Council
- The Chairman of Audit and Risk Committee
- The Monitoring Officer

### **27.3.3 Terms of reference:-**

- The Constitution working party has no decision-making power save that it shall act as a 'sounding board' for the delegated decision-making power of the Monitoring Officer in relation to minor amendments to the Constitution
- It can invite any Member or Officer to speak on a particular item
- The agenda and minutes will be circulated to the Leader and other Group Leaders
- It can consider any constitutional or procedural matter concerning the Council
- It will assist the Audit and Risk Committee in undertaking regular reviews of the Council's Constitution
- It will make recommendations on changes to the Constitution, and other Council Procedures, to the Audit and Risk Committee and the Full Council

## **ARTICLE 28 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **28.1 Suspension of the Constitution**

- (a) **Limit to Suspension** - The Articles of this Constitution may not be suspended. The rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law
- (b) **Procedure to suspend** - A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1

### **28.2 Interpretation**

The ruling of the Mayor as to the Construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

## **ARTICLE 29 – THE CIVIL CONTINGENCY CONSULTATION GROUP**

29.1. The Council will establish a Civil Contingency Consultation Group.

### **29.2. Aim**

To prepare a forum for consultation on issues related to emergency planning and business continuity within the Borough of Great Yarmouth.

### **29.3. Objectives**

- To inform and update on preparedness and response measures for local emergencies and unplanned disruptions.
- To clarify and review hazards and threats to the normal functioning of services.
- To review procedures following a major incident and make recommendations as necessary.

### **29.4. Schedule of Meetings**

It is suggested that meetings be scheduled twice a year with additional meetings as events require.

### **29.5. Membership**

#### **GYBC Elected Members:**

Chairs of relevant committees

#### **GYBC officers:**

- Head of Environmental Services
- Chief Executive
- Emergency Planning Manager.

#### **Emergency Services representatives:**

- Great Yarmouth Police
- GY Fire and Rescue Service: Emergency Planning Officer and GY Station Manager
- East of England Ambulance Service
- MCA Havenbridge House.
- NCC Emergency Planning representative.
- Representative of the Great Yarmouth Chamber Council of the Norfolk Chamber of Commerce.

## **ARTICLE 30 SCHEME OF DELEGATION**

### **30.0 SCHEME OF DELEGATIONS TO OFFICER**

#### **30.1 - General Delegations**

The Council under section 100 of the Local Government Act 1972 has resolved to delegate to each Director and Head of Service the power to manage and operate the department and the services for which s/he is responsible provided that any action taken is within the operational plans, budgets and policy and financial guidelines set by the Council and relevant committee/s and subject to the conditions and requirements in or implied by the Council's Constitution and the Scheme of Delegations.

Each Director and Head of Service is also authorised as follows:

- 30.1.1 the appointment and dismissal of staff within these services, with the exclusion of the Statutory Officers
- 30.1.2 the procurement of works, supplies and services within the financial and contract framework of the council's constitution;
- 30.1.3 all decisions and the implementation of all steps necessary for those functions within the framework of plans and budgets approved by the council:
- 30.1.4 the exercise of all other functions incidental, ancillary or conducive to the carrying out of the main service functions for which they are responsible;
- 30.1.5 the authorisation of named officers under any statutory or regulatory provision to enable those officers to exercise specific functions (by way of example only, to enter onto and inspect land, to acquire information or to conduct covert surveillance, to issue fixed penalty notices);
- 30.1.6 the signing and service of any notices, counter notices, or the making of any formal notifications for the purposes of the functions for which they are responsible.

#### **30.2 Reserved and Restricted Powers**

**30.3** An officer shall not have the power to exercise any functions or take any decisions reserved under this Constitution to a Committee or the Council-

- 30.3.1.1 where the council or any relevant committee or sub-committee has resolved to suspend that delegated power;
- 30.3.1.2 Where expenditure over £100,000 is committed
- 30.3.1.3 outside of or contrary to the council's policy and budgetary framework;
- 30.3.1.4 where the council's Head of the Paid Service or Monitoring Officer has formally notified the officer concerned that the

delegated function should not be exercised;

30.3.1.5 where there is a conflict of interest or where any code of conduct for council employees in force from time to time prevents the exercise of such a function.

30.4 The above delegations apply not only to functions delegated directly by the council but to functions delegated via committees, sub-committees or joint committees of the council and other local authorities or public bodies.

30.5 The scheme of delegation may be amended or varied in general or in particular in whole or in part by the delegating body.

30.6 There shall be delegated to the Chief Executive, or in his or her absence any other Chief Officer the exercise of any power or function of the Council, which in law is capable of delegation,

**30.6.1** in an emergency threatening life, limb or substantial damage to property within the district.

**30.6.2** In a situation of urgency where a decision is required that was not foreseeable and which may enable the authority to avert or mitigate a financial or reputational loss or take advantage of a potential financial or reputational benefit

In each case The Chief Executive or Chief Officer shall consult with the Leader of the Council or their Deputy (unless they cannot be contacted after all reasonable efforts have been made).

The exercise of such delegated power shall be confined to the minimum necessary to deal with the emergency and shall be reported to the next meeting of the Council, or Policy and Resources Committee whichever shall be first.



## **30.7 Details of Delegation to Officers**

### **30.7.1 General**

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

### **30.7.2 Chief Officers.**

The Full Council will engage persons for the following posts, who will be designated chief officers:

30.7.2.5	Head of Paid Service
30.7.2.6	Strategic Directors
30.7.2.7	Development Director
30.7.2.8	Monitoring Officer
30.7.2.9	Section 151 Officer

### **30.7.3 Post Functions and Areas of Responsibility**

#### **30.7.3.1 Chief Executive (and Head of Paid Service)**

- Overall corporate management and operational responsibility (including overall management responsibility for all officers)
- Together with the Monitoring Officer and Section 151 Officer, provision of professional advice to all parties in the decision-making process and responsibility for a system of record keeping for all the Council's decisions.
- Representing the Council on partnership and external bodies (as required by statute or the Council) with particular responsibility for Performance Management and Localism

#### **30.7.3.2 Directors**

Directors take such decisions as relate to their role and responsibilities including expenditure in accordance with the delegated expenditure at paragraph 25.8 of the Constitution

#### **30.7.3.3 Heads of Service**

Head of Communications and Marketing  
Head of Customer Services  
Head of Environmental Services  
Head of Inward Investment  
Head of Planning and Growth  
Head of Property and Asset Management

### **30.7.4 Head of Paid Service, Monitoring Officer and Section 151 Officer**

The Council will designate the following posts as shown:

#### **Post Designation**

Chief Executive - Head of Paid Service  
Monitoring Officer - Monitoring Officer  
Head of Finance – Section 151 Officer

Such posts will have the functions described below.

### **30.7.5 Structure.**

The Head of Paid Service will determine and publicise a description of the overall service management, which is appended to the Constitution, and subject to review on at least an annual basis.

### **30.7.6 Functions of the Head of Paid Service**

#### **30.7.6.1 Discharge of functions by the Council**

The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

#### **30.7.6.2 Restrictions on functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

### **30.5.7 Functions of the Monitoring Officer**

#### **30.5.7.1 Maintaining the Constitution.**

The Monitoring Officer will maintain and revise an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

### **30.5.7.2 Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Full Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered and appropriate advice taken.

### **30.5.7.3 Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

### **30.5.7.4 Working with the Independent Person**

The Monitoring Officer will work with the Council's appointed Independent Person to promote and maintain high standards of conduct and ethical behaviour.

### **30.5.7.5 Receiving reports**

The Monitoring Officer will receive and act on decisions of the Standards Committee.

### **30.5.7.6 Conducting investigations**

The Monitoring Officer will conduct investigations or arrange for investigations to be conducted where appropriate into ethics and standards matters and make reports or recommendations in respect of them to the Standards Committee.

### **30.5.7.7 Proper Officer for access to information**

The Monitoring Officer will ensure that Council decisions and relevant officer reports and background papers are made publicly available as soon as possible.

### **30.5.7.8 Advising whether decisions are within the budget and policy framework.**

The Monitoring Officer will advise whether decisions are in accordance with the budget and policy framework.

### **30.5.7.9 Providing advice**

The Monitoring Officer will provide advice on the scope of powers and

authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.

#### **30.5.7.10 Restrictions on posts**

The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

The Monitoring Officer will discharge his/her functions in accordance with the Council's protocol.

### **30.5.8 Functions of the Section 151 Officer**

#### **30.5.8.1 Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the Full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

#### **30.5.8.2 Administration of financial affairs.**

The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

#### **30.5.8.3 Contributing to corporate management**

The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

### **30.5.9 Responses to Consultation Papers.**

#### **30.5.9.1 Technical Consultation Papers.**

Responses to Technical consultation Papers are delegated to the relevant Technical Officer

## **ARTICLE 31 - RULES OF PROCEDURE**

### **31.1 ANNUAL MEETING OF THE COUNCIL**

#### **31.1.1 Timing and business**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 26 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in May, on a date to be fixed by the Council

The annual meeting will:

- (i) elect a person to preside if the Mayor or Deputy Mayor is not present
- (ii) elect the Mayor
- (iii) elect the Deputy Mayor
- (iv) approve the minutes of the last meeting
- (v) receive any announcements from the Mayor and/or Head of Paid Service
- (vi) elect the Leader and Deputy Leader
- (vii) appoint, a Standards Committee and such other Committees as the Council considers appropriate
- (viii) agree the scheme of delegation (as set out in Article 30 of this Constitution)
- (ix) approve a programme of ordinary meetings of the Council for the year and
- (x) consider any business set out in the notice convening the meeting.

#### **31.1.2 Appointment of Councillors to Committees and Outside Bodies**

At the annual meeting, the Council meeting will:

- (i) decide which Committees to establish for the Municipal Year
- (ii) decide the size and Terms of Reference for those Committees
- (iii) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules

- (iv) receive nominations of Councillors to serve on each Committee and outside body and
- (v) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council.

## **31.2 ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and Deputy Mayor 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 Mayor, Leader, Chairs of the Committees or the Head of Paid Service
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting
- (vi) deal with any business from the last Council meeting.
- (vii) receive reports from the Council's Committees 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
- (ix) consider motions and
- (x) consider any other business specified in the summons to the meeting including consideration of proposals from the Committees in relation to the Council's budget and policy framework.

## **31.3 EXTRAORDINARY MEETINGS**

### **31.3.1 Calling extraordinary meetings**

Those listed below may request the Corporate Services Manager to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution
- (ii) the Mayor

- (iii) the Monitoring Officer and
- (iv) any five Members of the Council if they have signed a requisition presented to the Mayor 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.

### **31.3.2 Business**

In the case of extraordinary meetings, however called, the Corporate Services Manager shall set out the business to be considered and no business other than that set out in the summons shall be considered at the meeting.

## **31.4 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

### **31.4.1 Allocation**

As well as allocating seats on Committees and Sub-Committees, the Council will allocate seats in the same manner for substitute Members.

### **31.4.2 Number**

For each Committee or Sub-Committee, substitutes nominated from each political group, at the discretion of each group, may become members of that committee for the duration of that committee meeting, provided that the substitute member has received the necessary training where appropriate.

### **31.4.3 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.

### **31.4.4 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 notifying the Corporate Services Manager by 9 am on the day of the meeting of the intended substitution.



### **31.5 TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Corporate Services Manager and notified in the summons.

### **31.6 NOTICE OF AND SUMMONS TO MEETINGS**

The Corporate Services Manager 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 days before a meeting, the Corporate Services Manager will send a summons by post, or email where appropriate, to every Member of the Council or leave it at their usual place of residence. 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.

### **31.7 CHAIR OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chairman of Committees and Sub-Committees.

### **31.8 QUORUM**

The quorum of a meeting will be one third of the whole number of Members. During any meeting if the Mayor 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 Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

### **31.9 QUESTIONS BY THE PUBLIC**

#### **31.9.1 General**

Members of the public may ask questions of Chairs of the Committees at ordinary meetings of the Council during the period of Public Question Time.

#### **31.9.2 Order of questions**

Questions will be asked in the order in which they were received, except that the Mayor may group together similar questions.

#### **31.9.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Corporate Services Manager no

later than midday seven working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Chair of the Committee to whom it is to be put.

#### **31.9.4 Number of questions**

At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of one organisation. The total number of questions to be dealt with at any ordinary meeting will be limited to five.

#### **31.9.5 Scope of questions**

The Corporate Services Manager or Monitoring Officer may reject a question if it:

- is not about a matter for which the local authority has a responsibility, or which affects the Borough
- is defamatory, frivolous or offensive
- is substantially the same as a question which has been put at a meeting of the Council in the past six months or
- requires the disclosure of confidential or exempt information.

#### **31.9.6 Record of questions**

The Corporate Services Manager will enter each question on to the council's web site open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

#### **31.9.7 Asking the question at the meeting**

The Mayor will invite the questioner to put the question to the chair named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### **31.9.8 Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question.

A supplementary question must arise directly out of the original question or the reply. The mayor may reject a supplementary question on any of the grounds in Rule 31.9.5 above.

### **31.9.9 Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member, to whom it was to be put, will be dealt with by a written answer.

### **31.9.10 Reference of question to a Committee**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to a Committee. Once seconded, such a motion will be voted on without discussion.

## **31.10 QUESTIONS BY MEMBERS**

### **31.10.1 On reports of a Committee**

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

### **31.10.2 Questions on notice at full Council**

Subject to Rule 31.11.4, a Member of the Council may ask:

- the Mayor
- the Chairman 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 of Great Yarmouth.

### **31.10.3 Questions on notice at Committees and Sub-Committees**

Subject to Rule 31.11.4, a Member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the Borough of Great Yarmouth and which falls within the terms of reference of that Committee or Sub-Committee.

### **31.10.4 Notice of questions**

A Member may only ask a question under Rule 31.10.2 or 31.10.3 if either:

- (a) they have given at least ten working days' notice in writing before the day of the meeting of the question to the Corporate Services Manager or
- (b) the question relates to urgent matters, they have the consent of the Mayor to whom the question is to be put, and the content of the question is given to the Corporate Services Manager by 11am on the day of the meeting.

(The person to whom the question is directed may waive these requirements)

### **31.10.5 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 with the minutes of the meeting at which the question has been asked.

### **31.10.6 Supplementary question**

A Member asking a question under Rule 31.10.2 or 31.10.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply. Unless the Mayor decides otherwise, no discussion will take place on any question, but any member may move that the matter raised by a question be referred to the committee or appropriate officer or sub-committee. Once seconded, such a motion will be voted on without discussion.

## **31.11 MOTIONS ON NOTICE**

### **31.11.1 Notice**

Except for motions which can be moved without notice under Rule 31.12, written notice of every motion, signed by at least five Members, must be delivered to the Corporate Services Manager not later than ten working days before the date of the meeting. These will be entered on the Councils website open to public inspection.

### **31.11.2 Motion set out in Agenda**

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

31.11.3 If a motion, notice of which is set out in the summons, is not moved it shall, unless postponed by consent of the Council be treated as abandoned and shall not be moved without fresh notice.

31.11.4 Motions for which notice has been given shall be dealt with at the first available Council meeting.

The Monitoring Officer may reject a Motion if he/she feels that the Motion does not meet this criteria.

The Monitoring Officer and Section 151 Officer may reject a motion that impacts on the Policy and Budget Framework of the Council and require that a report from an Officer be prepared before the matter can go forward to Council for consideration

If the subject matter of any Motion of which notice has been duly given comes within the province of any Sub Committee, Committee or Committees, it shall, upon being moved and seconded, stand referred without discussion to such Sub Committee, Committee or Committees as the Council may determine for consideration and report.

### **31.11.5 Scope**

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

## **31.12 MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved
- (b) in relation to the accuracy of the minutes
- (c) to change the order of business in the agenda
- (d) to refer something to an appropriate body or individual
- (e) to appoint a Committee or Member arising from an item on the summons 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 (complex variations to be made in writing and a copy given to the Mayor and Corporate Services Manager prior to the meeting)
- (i) to proceed to the next business
- (j) that the question be now put
- (k) to adjourn a debate
- (l) to adjourn a meeting
- (m) to suspend a particular Council procedure rule
- (n) to exclude the public and press in accordance with the Access to Information Rules
- (o) to not hear further a Member named under Rule 31.19.3 or to exclude them from the meeting under Rule 31.19.4 and
- (p) to give the consent of the Council where its consent is required by this Constitution.

### **31.13 RULES OF DEBATE**

#### **31.13.1 No speeches until motion seconded**

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

#### **31.13.2 Right to require motion in writing**

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

#### **31.13.3 Seconders' speech**

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

#### **31.13.4 Content and length of speeches**

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

### **31.13.5 When a Member may speak again**

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

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

### **31.13.6 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 and
  - (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion to have the effect of introducing a new subject matter into the motion before Council.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.

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

**31.13.7 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.

**31.13.8 Withdrawal of motion**

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

**31.13.9 Right of reply**

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

**31.13.10 Motions which may be moved during debate**

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

- (a) to withdraw a motion
- (b) to amend a motion



- (c) to proceed to the next business
- (d) that the question be now put
- (e) to adjourn a debate
- (f) to adjourn a meeting
- (g) to exclude the public and press in accordance with the Access to Information Rules and
- (h) to not hear further a Member named under Rule 31.19.3 or to exclude them from the meeting under Rule 31.19.4.

**31.13.11 Closure motions**

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
  - (i) to proceed to the next business
  - (ii) that the question be now put
  - (iii) to adjourn a debate or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he or 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 Mayor 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 Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

**31.13.12 Point of order**

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged

breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

**31.13.13 Personal explanation**

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

**31.14 PREVIOUS DECISIONS AND MOTIONS**

**31.14.1 Motion to rescind a previous decision**

A motion of amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 16 Members.

**31.14.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 24 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

**31.15 VOTING**

**31.15.1 Majority**

Unless this Constitution 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.

**31.15.2 Chairman's casting vote**

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

**31.15.3 Voting Method**

The Mayor will take the vote by show of hands, electronic means, or if there is no dissent, by the affirmation of the meeting.

**31.15.4 Recorded vote by demand**

If 16 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 entered into the minute.

**31.15.5 Right to require individual vote to be recorded**

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

**31.15.6 Mandatory recorded vote at Budget Council Meetings**

Immediately after any vote is taken at budget decision meeting there will be a recorded vote in the minutes of the proceedings of that meeting, the names of the persons who cast a vote for the decision, or against the decision, or who abstained from voting.

### **31.15.6 Voting on appointments**

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

## **31.16 MINUTES**

### **31.16.1 Signing the minutes**

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

### **31.16.2 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.

### **31.16.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

## **31.17 RECORD OF ATTENDANCE**

A record of the members attending the meeting will be recorded in the minutes.

## **31.18 EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules of this Constitution or Rule 31.20 (Disturbance by Public).

## **31.19 MEMBERS' CONDUCT**

### **31.19.1 Standing to speak**

When a Member speaks at full Council they must stand and address the meeting through the Mayor. If more than one Member stands, the Mayor 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.

### **31.19.2 Chairman standing**

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

### **31.19.3 Member not to be heard further**

If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may rule that the Member be not heard further.

### **31.19.4 Member to leave the meeting**

If the Member continues to behave improperly after such a ruling is made by the Mayor, the Mayor may rule that the Member leave the meeting.

### **31.19.5 General disturbance**

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

## **31.20 DISTURBANCE BY PUBLIC**

### **31.20.1 Removal of member of the public**

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

### **31.20.2 Clearance of part of meeting room**

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

### **31.21 AUTHENTICATION OF DOCUMENTS**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **31.22 COMMON SEAL OF THE COUNCIL**

The Common Seal of the Council will be kept in a safe place in the custody of the Corporate Services Manager. The Common Seal will be affixed to those documents which, in the opinion of the Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, the Directors or some other person authorised by the Chief Executive Officer.

### **31.23 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

#### **31.23.1 Suspension**

All of these Council Rules of Procedure 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.

#### **31.23.2 Amendment**

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

### **31.24 APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedures apply to meetings of full Council. The rules apply to meetings of Committees and Sub-Committees so far as they are appropriate.

## **31.25 ACCESS TO INFORMATION PROCEDURE RULES**

*References:*

*Sections 100A - H and schedule 12A Local Government Act 1972*

*Section 22 of The Local Government Act 2000*

*Chapter 7, DETR Guidance*

### **31.25.1 SCOPE**

These rules apply to all meetings of the Council and its committees,

### **31.25.2 ADDITIONAL RIGHTS TO INFORMATION**

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

### **31.25.3 RIGHTS TO ATTEND MEETINGS**

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

### **31.25.4 NOTICES OF MEETING**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Town Hall, Hall Quay, Great Yarmouth.

### **31.25.5 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

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

### **31.25.6 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 Corporate Services Manager thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

### **31.25.7 ACCESS TO MINUTES ETC AFTER THE MEETING**

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

- (a) the minutes of the meetings or records of decisions taken, together with reasons, for all meetings of the Committees, 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.

### **31.25.8 BACKGROUND PAPERS**

#### **31.25.8.1 List of background papers**

The Reporting Officer 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 and in respect of Committee reports, the advice of a political adviser.



### **31.25.8.2 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.

### **31.25.9 SUMMARY OF PUBLIC RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Town Hall, Hall Quay, Great Yarmouth.

### **31.25.10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

#### **31.25.10.1 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.

#### **31.25.10.2 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.

#### **31.25.10.3 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.

#### **31.25.10.4 Meaning of exempt information**

Exempt information means information falling within the following seven categories:

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 upon a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –

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

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.

Information which falls within any of paragraphs 1 to 7 above; and 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.

### **31.25.11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Corporate Services Manager thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which 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.

### **31.25.12 SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Mayor or in his/her absence the Deputy Mayor.

### **31.25.13 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

#### **31.25.13.1 Nature of rights**

These rights of a Member are additional to any other right he/she may have.

#### **31.25.14 Rights of Access to Meetings and Documents by Councillors**

31.25.14.1 A Councillor possesses certain rights conferred by law e.g. s/he is entitled to attend Council, or Committee and Sub-Committee meetings without hindrance; and, if s/he can show a "need to know" in relation to a particular item of business.

31.25.14.2 A Member may attend any meeting but, unless appointed to the Committee, Sub-committee, Group or Forum or as a substitute Member, shall not vote and save as provided in (3) below, may only speak with the permission of the Chairman.

31.25.14.3 A Member who is the subject of a Code of Conduct complaint may only attend the Standards Committee meeting when the complaint is being considered if either the Monitoring Officer or the Committee agrees.

31.25.14.5 The rights of Councillors to documents emanate from statute and common law - by far the most important being a Councillor's common law rights.

- 31.25.14.6 Case law on the subject highlights two themes which are often in conflict, namely, the corporate responsibilities and duties of Members of the Council to the Council as a whole and the duties and responsibilities of Councillors as representatives of a wider range of community interest which they are elected to represent.

### **Common Law Rights**

- 31.25.14.7 In principle, a Member has a right to inspect documents addressed to the Council upon the basis that a Member is under a duty to keep him/herself informed of Council business which relates to their role as an elected representative and which they have a "need to know". Accordingly, if the motive for seeing a document is indirect, improper or ulterior then access can be quite properly barred. So too, a Member does not have a "roving commission" through Council paperwork. In practice this means that if a Councillor is a Member of a Committee then s/he has the right to inspect documents relating to the business of that Committee, if not a Member of that Committee then the Councillor must show cause why the sight of them is necessary to perform his/her duties.
- 31.25.14.8 The entitlement of a Committee Member to have access to relevant documents at the particular Committee is stronger than that of a non-Member but as indicated it is not an absolute right and improper/indirect/ulterior motives would be a bar to access.
- 31.25.14.9 A Member of a Committee is normally entitled to see documents relating to the work of a Sub-Committee of that Committee or if the Councillor is a Member of another Committee the administration of which relates to the activities of the relevant Sub-Committee.
- 31.25.14.10 Where there is a right of access, that right would seem to override the duties of confidentiality owed to third parties only so far as is necessary to give effect to that right. The information should still be dealt with on a confidential basis.

### **Statute**

- 31.25.14.11 Section 100(f) of the Local Government Act 1972 (As amended) provides additional statutory rights for Members in respect of documents in the possession or under the control of the Council which contains material relevant to business to be transacted at a Council Committee or Sub-Committee meeting. If the particular Member could not establish a "need to know" at common law then the Proper Officer of the Council would be entitled to withhold access if the documents fell within the categories of exempt information within paragraphs 1, 2, 3, 4, 5 and 7 of Schedule 12A to the Act.
- 31.25.14.12 Procedure Rules provide that requests for information should normally be made to the Proper Officer of the Council although it is not unusual

for Members to approach the relevant Officer direct - only having recourse to the Proper Officer or the Chief Executive if there is a need to clarify the particular rights of access in relation to the material concerned.

## **ARTICLE 32**

### **FINANCIAL AND CONTRACT PROCEDURE RULES**

#### **32.0 FINANCIAL REGULATIONS**

##### **32.1 General principles**

- (i) Financial regulations provide the framework for managing the authority's financial affairs. They apply to every member and employee of the authority and anyone acting on its behalf.
- (ii) The regulations identify the financial responsibilities of the Council, its Members, the Head of Paid Service, the Monitoring Officer, the Section 151 Officer, Directors and Heads of Service. Records should be maintained of where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated to other responsible officers, references to the Directors in the regulations should be read as referring to them.
- (iii) All employees and members 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, provides value for money and achieves best value.
- (iv) The Section 151 Officer is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the full council for approval. The Section 151 Officer is also responsible for reporting, where appropriate, breaches of the financial regulations to the Council.
- (v) Directors are responsible for ensuring that all employees in their departments are aware of the existence and content of the authority's financial regulations and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their Service.
- (vi) The Section 151 Officer is responsible for issuing advice and guidance (financial procedures) to underpin the financial regulations that members, staff and others acting on behalf of the authority are required to follow. Financial procedures are used to implement the requirements of the Councils financial regulations.
- (vii) Article 28 contains the Council's financial procedures. These are used to interpret and ensure adherence to the Council's financial regulations.
- (viii) Executive Leadership Team (ELT) is comprised of the Head of Paid Service and Directors as identified in the constitution. Executive Leadership Team has no direct financial responsibility as all budgets

are delegated to Heads of Service once approved by Council. Members of Executive Leadership Team may, however, act as, or on behalf of a Head of Service in accordance with these financial regulations in the absence of any Head of Service, or on any other matter relating to the effective operation of the Council's business.

- (ix) Breaches of these financial regulations shall be investigated in accordance with the procedures laid down in the local disciplinary procedures.

## **32.2 FINANCIAL MANAGEMENT**

### **Introduction**

- 32.2.1 Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget.

### **The Council**

- 32.2.2 The full Council is responsible for adopting the authority's constitution and Members' Code of Conduct and for approving the policy framework and budget. The policy framework is set out in its constitution. The Council is also responsible for establishing arrangements for monitoring compliance with the agreed policy.
- 32.2.3 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes all decisions delegated by, and decisions taken by, the Council and its Committees. These delegations and details of who has responsibility for which decisions are set out in the constitution.

### **Policy and Resources Committee**

- 32.2.4 The Policy and Resources Committee is responsible for proposing the policy framework and budget to the Council, and for discharging Policy and Resources Committee functions in accordance with the policy framework and budget.
- 32.2.5 Policy and Resources Committee decisions can be delegated to a committee of the authority, or an Officer.

## **Audit and Risk Committee**

- 32.2.6 The Audit and Risk Committee is established by the full Council and is responsible, amongst other things, for audit matters and may make recommendations to Policy and Resources Committee or in exceptional circumstances when considering any audit reports directly concerning the actions of Policy and Resources Committee, reporting directly to the full council. It has right of access to all the information it considers necessary and can consult directly with internal and external auditors. The Committee is responsible for reviewing the external auditor's reports, the annual audit letter, internal audit reports and action plans, and internal audit's annual report.

## **Standards Committee**

- 32.2.7 The Standards Committee is established by the full Council and is responsible for promoting and maintaining high standards of conduct amongst Councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' code of conduct, and for monitoring the operation of the code.

## **Other Regulatory Committees**

- 32.2.8 Planning and Licensing are functions exercised through the Development Control and Licensing Committees under powers delegated by the full Council.

## **The Statutory Officers**

### **Head of Paid Service**

- 32.2.9 The Head of Paid Service is responsible for the corporate and overall strategic management of the authority. He / she must report to and provide information for the full Council, Policy and Resources Committee, and other Committees. He / she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the full Council's decisions (see below).

### **Monitoring Officer**

- 32.2.10 The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council, and for ensuring that procedures for recording and reporting all decisions are operating effectively.



- 32.2.11 The Monitoring Officer must ensure that Policy and Resources Committee decisions and the reasons for them are made public. He or she must also ensure that Council Members are aware of decisions made by Policy and Resources Committee and of those made by officers who have delegated Policy and Resources Committee responsibility.
- 32.2.12 The Monitoring Officer is responsible for advising all Councillors and Officers about who has authority to take a particular decision.
- 32.2.13 The Monitoring Officer is responsible for advising full Council and committees about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- 32.2.14 The Monitoring Officer (together with the Section 151 Officer) is responsible for advising full Council or committees about whether a decision is likely to be considered contrary to or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' may include:
- initiating a new policy
  - committing expenditure in future years to above the budget level
  - incurring inter service transfers above virement limits
- 32.2.15 The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

### **Section 151 Officer**

- 32.2.16 Section 151 of the Local Government Act 1972 requires local authorities to make arrangements for the proper administration of their financial affairs and appoint a Section 151 Officer to have responsibility for those arrangements. The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. The statutory duties arise from:
- Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Accounts and Audit Regulations 2015.
- 32.2.17 Section 114 of the Local Government Finance Act 1988 requires the "responsible financial officer" to report to the Council and the external auditor if the authority or one of its officers:
- has made, or is about to make, a decision which involves incurring unlawful expenditure
  - has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority

- is about to make an unlawful entry in the authority's accounts.

Section 114 of the 1988 Act also requires:

- the responsible financial officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
- the authority to provide the responsible financial officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

32.2.18 The Section 151 Officer is responsible for:

- the proper administration of the authority's financial affairs
- setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- providing financial information
- preparing the revenue budget and capital programme
- insurance and VAT matters
- treasury management.

### **Heads of Service**

32.2.19 Heads of Service (or a member of the Executive Leadership Team acting on their behalf) are responsible for:

- ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Section 151 Officer
- signing contracts on behalf of the authority (other than those under the Council's seal).

32.2.20 It is the responsibility of Heads of Service to consult with the Section 151 Officer and seek relevant approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

## **Accounting policies**

- 32.2.21 The Section 151 Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

## **Accounting records and returns**

- 32.2.22 The Section 151 Officer is responsible for determining the accounting procedures and records for the authority.

## **The annual statement of accounts**

- 32.2.23 The Section 151 Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the SORP)* (CIPFA/LASAAC). Audit and Risk Committee is responsible for approving the annual statement of accounts.

## **32.3 FINANCIAL PLANNING**

### **Introduction**

- 32.3.1 The full Council is responsible for agreeing the authority's policy framework and budget. In terms of financial planning, the key elements are:

- the corporate plan
- the budget
- the capital programme.

### **Policy framework**

- 32.3.2 The full Council is responsible for approving the policy framework and budget. The policy framework comprises the following statutory plans and strategies, as amended from time to time by legislation, including;

- corporate plan
- capital programme
- treasury management policy statement
- food enforcement service plan.

- 32.3.3 The full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the full Council by the Monitoring Officer.

- 32.3.4 The full Council is responsible for setting the level at which the Policy and Resources Committee may re-allocate budget funds from one service to another. The Policy and Resources Committee is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the council.

## **Budgeting**

### **Budget format**

- 32.3.5 The general format of the budget will be approved by the full Council and proposed by the Policy and Resources Committee on the advice of the Section 151 Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.
- 32.3.6 The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and medium term revenue forecast plan on a minimum of three-yearly rolling basis for consideration by Policy and Resources Committee, before submission to the full Council.
- 32.3.7 It is the primary responsibility of Directors to ensure that budget estimates reflecting agreed service plans are submitted to Policy and Resources Committee and that these estimates are prepared in line with guidance issued by the Section 151 Officer.

### **Budget monitoring and control**

- 32.3.8 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to Policy and Resources Committee, and the Audit and Risk Committee on the overall position on a regular basis.
- 32.3.9 It is the responsibility of Heads of Service to control income and expenditure within their area and to monitor performance taking account of financial information provided by the Section 151 Officer.

## **Resource allocation**

- 32.3.10 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full council's policy framework.

## **Preparation of the capital programme**

- 32.3.11 The Section 151 Officer is responsible for ensuring that a three-year capital programme is prepared on an annual basis for consideration by Policy and Resources Committee before submission to full Council.

## **Maintenance of reserves**

- 32.3.12 It is the responsibility of the Section 151 Officer to advise Policy and Resources Committee and / or the full Council on prudent levels of reserves for the authority.

## **32.4 RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **Introduction**

- 32.4.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

### **Risk Management**

- 32.4.2 Audit and Risk Committee is responsible for approving the authority's risk management strategy and for reviewing the effectiveness of risk management. Audit and Risk is responsible for ensuring that proper insurance exists, where appropriate.
- 32.4.3 The Section 151 Officer is responsible for preparing the authority's risk management strategy and for promoting it throughout the authority.
- 32.4.4 The Section 151 Officer is responsible for advising Audit and Risk Committee on all matters in relation to the taking out of proper insurance cover, where appropriate.

### **Internal control**

- 32.4.5 Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.

324.6 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.

324.7 It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### **Audit requirements**

324.8 The Accounts and Audit Regulations 2015 requires every local authority to maintain an adequate and effective internal audit.

324.9 The Local Audit and Accountability Act 2014 sets out the arrangements for the audit and accountability of local public bodies.

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

### **Preventing fraud and corruption**

324.11 The Section 151 Officer is responsible for the development and maintenance of an anti-fraud and corruption policy.

### **Assets**

324.12 Directors should ensure that records and assets are properly maintained (by appropriately qualified persons) and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure, are in place. Assets should be acquired and disposed of in accordance with the Council's Asset Management Plan, and includes seeking alternative uses by / within the Council before disposal.

### **Treasury Management**

324.13 The authority has adopted CIPFA's Treasury Management in Local Authorities - Code of Practice.

324.14 The Council is responsible for approving the Treasury Management Policy Statement setting out the matters detailed in paragraph 15 of CIPFA's Treasury Management in Local Authorities - Code of Practice. The policy statement is proposed to the full Council by the Policy and

Resources Committee. The Section 151 Officer has delegated responsibility for implementing and monitoring the statement.

- 32.4.15 All money held by the authority is controlled by the officer designated for the purposes of Section 151 of the Local Government Act 1972.
- 32.4.16 The Section 151 Officer is responsible for reporting to the Council a proposed Treasury Management Strategy for the coming year at or before the start of each financial year.
- 32.4.17 All decisions on borrowing, investment or financing in accordance with the approved strategy shall be delegated to the Section 151 Officer, who is required to act in accordance with CIPFA's Treasury Management in Local Authorities - Code of Practice.
- 32.4.18 The Section 151 Officer is responsible for reporting to Policy and Resources Committee not less than once in each financial year on treasury management activities undertaken during the course of the year and the exercise of delegated treasury management powers. One such report shall comprise an annual report on treasury management for presentation by 31 July of the succeeding financial year.

## **32.5 SYSTEMS AND PROCEDURES**

### **Introduction**

- 32.5.1 Sound systems and procedures are essential to an effective framework of accountability and control.

### **General**

- 32.5.2 The Section 151 Officer is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Heads of Service to the existing financial systems or the establishment of new systems must be approved by the Section 151 Officer. However, Heads of Service are responsible for the proper operation of financial processes in their own departments.
- 32.5.3 Any changes to agreed procedures by Heads of Service to meet their own specific service needs should be firstly agreed with the Section 151 Officer.
- 32.5.4 Heads of Service should ensure that their staff receive relevant financial training, and should arrange for this to be provided by the Section 151 Officer.
- 32.5.5 Heads of Service must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection

Legislation. Heads of Service must ensure that staff are aware of their responsibilities under Freedom of Information Legislation.

### **Income and expenditure**

32.5.6 It is the responsibility of Heads of Service to ensure a proper scheme of delegation has been established within their specific area and is operating efficiently. The scheme of delegation should identify staff authorised to act on the Heads of Service behalf or on behalf of the Policy and Resources Committee, in respect of payments, income collection and placing orders, together with the limits of their authority. Policy and Resources Committee is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

### **Payments to employees and members**

32.5.7 The Section 151 Officer is responsible for approving the system of payments of salaries to staff, including payments for overtime, and for payment of all allowances to members and for all matters in relation to statutory payroll taxation.

### **Taxation**

32.5.8 The Section 151 Officer is responsible for advising Heads of Service, in light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority, with the exception of those matters detailed in 32.5.7 above.

32.5.9 The Section 151 Officer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns, (with the exception of those matters detailed in 32.5.7 above) by their due date, as appropriate.

## **32.6 EXTERNAL ARRANGEMENTS**

### **Introduction**

32.6.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion and improvement of the economic, social or environmental well-being of its area.

### **Partnerships**

32.6.2 The Head of Paid Service (or his/her nominated representative) represents the authority on partnership and external bodies.



- 32.6.3 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.
- 32.6.4 The Section 151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 32.6.5 Heads of Service are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies and partnerships.

### **External funding**

- 32.6.6 The Section 151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts. The Section 151 Officer must be informed of all external funding applied for by spending departments prior to such bids being submitted to the funding body.

### **Work for third parties**

- 32.6.7 Policy and Resources Committee is responsible for approving the contractual arrangements for any work for third parties or external bodies.

## **ARTICLE 33 - FINANCIAL PROCEDURES**

### **33.0 FINANCIAL MANAGEMENT STANDARDS**

#### **FINANCIAL MANAGEMENT**

**33.1** All Members and employees have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

#### **Key controls**

**33.2** The key controls and control objectives for financial management standards are:

- (a) their promotion throughout the authority
- (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators, measures and standards that are reported to Members.

#### **Responsibilities of Section 151 Officer**

- 33.3** To ensure the proper administration of the financial affairs of the authority.
- 33.4** To set the financial management standards and to monitor compliance with them.
- 33.5** To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of financial staff.
- 33.6** To advise on the key strategic controls necessary to secure sound financial management.
- 33.7** To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

#### **Responsibilities of Directors**

- 33.8** To promote the financial management standards set by the Section 151 Officer in their Service and to monitor adherence to the standards and practices, liaising as necessary with the Section 151 Officer.
- 33.9** To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

#### **Managing expenditure**

## **SCHEME OF VIREMENT**

**33.10** The scheme of virement is intended to enable the Policy and Resources Committee, Directors, Heads of Service 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.

### **Key controls and Responsibilities**

**33.11** Key controls for the scheme of virement are:

- (a) it is administered by the Section 151 Officer within guidelines set by these regulations. Any variation from this scheme requires the approval of the full Council.
- (b) the overall budget is agreed by the Policy and Resources Committee and approved by the full Council. Directors and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a detailed budget head within the same or different Chartered Institute of Public Finance and Accountancy (CIPFA) standard classification heading of a service plan budget.
- (c) virement does not create additional overall budget liability. Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should 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. Directors must plan to fund such commitments from within their own budgets.
- (d) virements are not permitted between General Fund and Housing Revenue Account services and are also not permitted from staffing budgets to any other budget head except with the express approval of the Section 151 Officer.
- (e) virements from earmarked reserves are subject to the approval of the Section 151 Officer.

- (f) The virement limits are as outlined below and should be in consultation with the Section 151 Officer and apply to revenue, capital and reserves:

Amount	Responsibility for Approval
Up to (and including) £10,000 (within budget/service headings of responsibility)	Heads of Service
Up to and including £50,000 (within and between service headings)	Chief Executive, Directors and Section 151 Officer
£50,000 to £100,000	Relevant Service Committee
Over £100,000	Policy and Resources Committee

- (g) The following outline the guidelines within which the virements can be carried out:
- Virements should not be between financial years (see also treatment of year-end balances);
  - Virement requests should specify the reason and purpose;
  - Where virement is between services the impact on delivery of service plans must be taken into account;
  - Virement from employee budgets is allowed only for similar purposes, for example overtime and employment of agency staffing or external contractors to deliver the service.
  - No virement shall be undertaken for utilising additional income for expenditure purposes without the consent of the Section 151 Officer.

## TREATMENT OF YEAR-END BALANCES

**33.12** The rules below cover arrangements for the transfer of resources between accounting years, i.e. a carry-forward. For the purposes of this scheme, a budget heading is considered to be a detailed budget head within the same or different Chartered Institute of Public Finance and Accountancy (CIPFA) standard classification heading of a service plan budget.

### Key Controls and Responsibilities

**33.13** Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.

**33.14** The Section 151 Officer will administer the scheme of carry-forward of underspends for consideration by the Policy and Resources Committee and report under-spend on service budgets carried forward to the relevant Service Committee and/or the Policy and Resources Committee

**33.15** When considering any applications for carry forwards of unspent (revenue) budgets, the Section 151 Officer will consider the overall budget position of the Council.

## **ACCOUNTING POLICIES**

**33.16** The Section 151 Officer is responsible for the preparation of the authority's Annual Statement of Accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the SORP)* (CIPFA/LASAAC), for each financial year ending 31 March.

### **Key controls**

**33.17** The key controls for accounting policies are:

- (a) systems of internal control are in place that ensures that financial transactions are lawful.
- (b) suitable accounting policies are selected and applied consistently
- (c) proper accounting records are maintained
- (d) financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

### **Responsibilities of Section 151 Officer**

**33.18** To select suitable accounting policies and to ensure that they are applied consistently, the policies will be reviewed annually. The accounting policies are set out in the annual statement of accounts, which is prepared at 31 March each year, and covers such items as:

- (a) separate accounts for capital and revenue transactions
- (b) the basis on which debtors and creditors at year end are included in the accounts
- (c) details on substantial provisions and reserves
- (d) fixed assets
- (e) depreciation
- (f) capital charges
- (g) work in progress
- (h) stocks and stores
- (j) accounting for value added tax
- (k) government grants
- (l) leasing
- (m) pensions

### **Responsibilities of Directors and Heads of Service**

**33.19** To adhere to the accounting policies and guidelines approved by the Section 151 Officer.

## **ACCOUNTING RECORDS AND RETURNS**

**33.20** Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

### **Key Controls**

**33.21** The key controls for accounting records and returns are:

- (a) finance staff and budget managers operate within the required accounting standards and timetables
- (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (d) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (e) documents are retained in a format (either original or electronic e.g. scanned) to ensure that they are properly available in accordance with potential legislative, legal admissibility and other requirements.

### **Responsibilities of Section 151 Officer**

**33.22** To determine the accounting procedures and records for the authority. Where these are maintained outside the finance department, the Section 151 Officer must be consulted by the Head(s) of Service concerned.

**33.23** To arrange for the compilation of all accounts and accounting records under his or her direction.

**33.24** To comply with the following principles when allocating accounting duties:

- (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
- (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

**33.25** To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 2015.

**33.26** To ensure that all claims for funds including grants are made by the due date.

- 33.27** To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and to ensure that Council approves the annual statement of accounts in accordance with the requirements of the relevant Accounts and Audit Regulations.
- 33.28** To administer the authority's arrangements for virements and over / under spend to be carried forward to the following financial year.
- 33.29** To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedules.

### **Responsibilities of Directors and Heads of Service**

- 33.30** To consult and obtain the approval of the Section 151 Officer before making any changes to accounting records and procedures.
- 33.31** To comply with the principles outlined in paragraph 33.24 when allocating accounting duties.
- 33.32** To maintain adequate records to provide a management trail leading from the source of income / expenditure through to the accounting statements.
- 33.33** To supply information required promptly to enable the annual statement of accounts to be completed in accordance with guidelines issued by the Section 151 Officer.

### **THE ANNUAL STATEMENT OF ACCOUNTS**

- 33.34** The authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. Audit and Risk Committee is responsible for approving the statutory annual statement of accounts.

### **Key Controls**

- 33.35** The key controls for the annual statement of accounts are:
- the authority is required to 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 these affairs. In this authority, that officer is the Section 151 Officer.
  - the authority's annual statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the SORP)* (CIPFA/LASAAC).

### **Responsibilities of Section 151 Officer**

**33.36** To sign and date the annual statement of accounts, stating that it presents fairly the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March.

### **Responsibilities of Section 151 Officer**

**33.37** To select suitable accounting policies and to apply them consistently.

**33.38** To make estimates that are reasonable and prudent.

**33.39** To comply with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the SORP)* (CIPFA/LASAAC).

**33.40** To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

### **Responsibilities of Directors and Heads of Service**

**33.41** To comply with accounting guidance provided by the Section 151 Officer and to supply the Section 151 Officer with information consistent with the manner and timescale requested.

## **33.42.0 FINANCIAL PLANNING**

### **PERFORMANCE PLANS**

**33.42.1** Each local authority has a statutory responsibility to publish various performance plans, including crime reduction strategies, asset management plan, housing strategy, housing business plan etc. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.

### **Key Controls**

**33.42.2** The key controls for performance plans are:

- (a) to ensure that all relevant plans are produced and that they are consistent.
- (b) to produce plans in accordance with statutory requirements.
- (c) to meet the timetables set.
- (d) to ensure that all performance information is accurate, complete and up to date.



- (e) to provide improvement targets which are meaningful, realistic and challenging.

### **Responsibilities of Section 151 Officer**

- 33.42.3** To advise on and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

### **Responsibilities of Chief Executive**

- 33.42.4** To contribute to the development of corporate and service targets and objectives and performance information.
- 33.42.5** To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.

### **Responsibilities of Directors**

- 33.42.6** To contribute to the development of performance plans in line with statutory requirements.
- 33.42.7** To contribute to the development of corporate and service targets and objectives and performance information.
- 33.42.8** To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met and that information is provided to the Section 151 Officer promptly and accurately to ensure that reporting and auditing targets are complied with.

### **Budgeting**

#### **FORMAT OF THE BUDGET**

- 33.42.9** The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

#### **Key Controls**

- 33.42.10** The key controls for the budget format are:
  - (a) the format complies with all legal requirements
  - (b) the format complies with CIPFA's Best Value Accounting - Code of Practice (BVACOP)

- (c) the format reflects the accountabilities of service delivery
- (d) all budget headings are allocated to a budget manager for responsibility.

### **Responsibilities of Section 151 Officer**

- 33.42.11** To advise Policy and Resources Committee on the format of the budget that is to be approved by the full council.

### **Responsibilities of Directors**

- 33.42.12** To comply with accounting guidance provided by the Section 151 Officer.

## **REVENUE BUDGET PREPARATION, MONITORING AND CONTROL**

- 33.42.13** Council approval of a service plan and the revenue budget for any one financial year confers authority upon Directors and Heads of Service to incur expenditure during that year on any item included therein, with the exception of any items, which require the further and subsequent approval of the Policy and Resources Committee. Budget management ensures that once the budget has been approved by full council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority 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.
- 33.42.14** By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.
- 33.42.15** For the purposes of budgetary control, a budget will normally be the planned income and expenditure for a service or cost centre. However, budgetary control may take place at a more detailed level if this is required by the scheme of delegation.

## Key Controls

- 33.42.16** The key controls for managing and controlling the revenue budget are:
- (a) budget managers (see 33.42.21) should be responsible only for income and expenditure that they can influence.
  - (b) there is a nominated budget manager for each cost centre heading.
  - (c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities.
  - (d) budget managers follow an approved certification process for all expenditure.
  - (e) income and expenditure are properly recorded and accounted for.
  - (f) performance levels / levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

## Responsibilities of Section 151 Officer

- 33.42.17** To establish an appropriate framework of budgetary management and control that ensures that:
- (a) budget management is exercised within the approved annual cash budget limits unless the full council agrees otherwise
  - (b) each budget manager has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
  - (c) expenditure is committed only against an approved budget head
  - (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations
  - (e) each cost centre has a single named manager, determined by a Director or relevant Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure.
- 33.42.18** To administer the authority's scheme of virement and carry forwards of under / overspend.

**33.42.19** To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

### **Responsibilities of Directors and Heads of Service**

**33.42.20** To maintain budgetary control within their Service, in adherence to the principles in 33.42.17, and to ensure that all income and expenditure is properly recorded and accounted for.

**33.42.21** To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of a Director or Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.

**33.42.22** To ensure that spending remains within the service's overall budget, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

**33.42.23** Variances over and above the approved budget are to be investigated and reported to the Section 151 Officer.

**33.42.24** In each December to recommend fees and charges for the following financial year to the Policy and Resources Committee, together with an estimate of the amount to be included in the budget as a result of those fees and charges being implemented. This need not be done if fees and charges are raised in line with the amount recommended by the Section 151 Officer.

**33.42.25** To ensure that a monitoring process is in place to review performance levels / levels of service in conjunction with the budget and is operating effectively.

**33.42.26** To submit reports to the Policy and Resources Committee and to the full Council, in consultation with the Section 151 Officer, where it appears that the amount of any item of approved revenue expenditure is likely to be exceeded or the amount of any item of approved income may not be reached.

**33.42.27** Directors may use income received in addition to that anticipated in the revenue budget approved by the Council to finance additional expenditure after either:

- (a) seeking the approval of the Section 151 Officer if:
  - i) the additional income (sponsorship, grants or gifts) is given to the Council for a specific project or area of activity, and

does not result in the Council incurring additional unbudgeted net cost or,

ii) the sum to be spent is £5,000 or less, or

(b) seeking the approval of the Section 151 Officer and the Policy and Resources Committee.

**33.42.28** To seek prior approval by the full council or the Policy and Resources Committee (as appropriate) for new proposals, of whatever amount, that:

(a) create financial commitments in future years

(b) change existing policies, initiate new policies or cease existing policies

(c) materially extend or reduce the authority's services.

**33.42.29** To ensure compliance with the scheme of virement.

**33.42.30** To agree with a Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Head of Services level of service activity.

## **BUDGETS AND MEDIUM-TERM FINANCIAL PLANNING**

**33.42.31** The authority 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 authority's plans and policies.

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

**33.42.33** Medium-term planning (or a three to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

### **Key Controls**

**33.42.34** The key controls for budgets and medium-term planning are:

- (a) specific budget approval for all expenditure
- (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Policy and Resources Committee for their budgets and the level of service to be delivered
- (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

### **Responsibilities of Section 151 Officer**

- 33.42.35** To prepare and submit reports on budget prospects to both Executive Leadership Team and the Policy and Resources Committee, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- 33.42.36** To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the full Council, and after consultation with the Policy and Resources Committee, Directors and Heads of Service.
- 33.42.37** To prepare and submit reports to the Policy and Resources Committee on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- 33.42.38** To advise on the medium-term implications of spending decisions.
- 33.42.39** To encourage the best use of resources and value for money by working with Directors and Heads of Service to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 33.42.40** To advise the full council on the Policy and Resources Committee proposals in accordance with his or her responsibilities under Section 151 of the Local Government Act 1972.

### **Responsibilities of Directors and Heads of Service**

- 33.42.41** To prepare estimates of income and expenditure, in consultation with the Section 151 Officer, to be submitted to the Policy and Resources Committee.
- 33.42.42** To prepare budgets that are consistent with any relevant cash limits, within the authority's annual budget cycle and within guidelines issued

by the Policy and Resources Committee. The format should be prescribed by the Section 151 Officer in accordance with any general directions of the full Council.

- 33.42.43** To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 33.42.44** In consultation with the Section 151 Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue budgets for consideration by the appropriate committee.
- 33.42.45** When drawing up draft budget requirements, to have regard to:
- (a) spending patterns and pressures revealed through the budget monitoring process
  - (b) legal requirements
  - (c) policy requirements as defined by the full council in the approved policy framework
  - (d) initiatives already under way.

## **RESOURCE ALLOCATION**

- 33.42.46** A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need / desire. It is therefore imperative that needs / desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

### **Key Controls**

- 33.42.47** The key controls for resource allocation are:
- (a) resources are acquired in accordance with the law and using an approved authorisation process
  - (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
  - (c) resources are securely held for use when required
  - (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

## **Responsibilities of Section 151 Officer**

- 33.42.48** To advise on methods available for the funding of resources, such as grants from central government, borrowing requirements and leasing.
- 33.42.49** To assist in the allocation of resources to budget managers.

## **Responsibilities of Directors and Heads of Service**

- 33.42.50** To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- 33.42.51** To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## **CAPITAL PROGRAMMES**

- 33.42.52** Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, 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.
- 33.42.53** The Government places strict controls on the financing capacity of the authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

## **Key Controls**

- 33.42.54** The key controls for capital programmes are:
- (a) specific approval by the full Council for the programme of capital expenditure. Approval by full Council of the capital budget and service plans shall confer authority upon Directors and Heads of Service to incur capital expenditure during the year on any item included therein, which require the further and subsequent approval of the relevant Committee, provided that the Council's funding allocation for that scheme is not exceeded.
  - (b) capital projects proposed for inclusion in the draft budget shall be formulated in accordance with the Council's Capital Strategy and submitted for approval by the relevant Committee.
  - (c) proposals for improvements and alterations to buildings must be approved by the appropriate Directors,



- (d) the development and implementation of asset management plans.
- (e) accountability for each proposal is accepted by a named manager.
- (f) monitoring of progress in conjunction with expenditure and comparison with approved budget.

### **Responsibilities of Section 151 Officer**

- 33.42.55** To prepare capital estimates jointly with Executive Leadership Team and to report them to Policy and Resources Committee for approval. Policy and Resources Committee will make recommendations on the capital budget and on any associated financing requirements to the full Council.
- 33.42.56** To obtain Policy and Resources Committee approval where a Director proposes to bid for or exercise additional borrowing approval not anticipated in the capital programme. This is because the extra borrowing may create future commitments to financing costs.
- 33.42.57** To prepare and submit reports to Policy and Resources Committee on the projected income, expenditure and resources compared with the approved estimates.
- 33.42.58** To provide guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Section 151 Officer, having regard to government regulations and accounting requirements.

### **Responsibilities of Directors and Heads of Service**

- 33.42.59** To comply with guidance concerning capital schemes and controls issued by the Section 151 Officer.
- 33.42.60** To ensure that all capital proposals submitted for inclusion in the budget have undergone a project appraisal in accordance with the Council's Capital Strategy and any guidance issued by Section 151 Officer.
- 33.42.61** In consultation with the Section 151 Officer, to prepare and submit to relevant Committee project appraisals for all schemes costing £250,000 or more before expenditure is committed, even though the scheme has been included in the capital budget and appropriate service plan.

A project appraisal shall include:

- i) the capital and revenue forecasts phased over the life of the development,
- ii) any available plans or drawings,
- iii) the amount of any estimates or tender,
- iv) any necessary approvals by government departments.

- 33.42.62** To prepare quarterly reports reviewing the capital programme provisions for their services which should include estimated final costs of schemes in the approved capital programme for submission to the Section 151 Officer.
- 33.42.63** To ensure that adequate records are maintained for all capital contracts.
- 33.42.64** To proceed with projects only when there is adequate provision in the capital programme.
- 33.42.65** Notwithstanding the authority conferred by Regulation 33.42.54, (that is, the general authority to spend approved capital budgets) relevant Committee may require a specific item to be spent only after further consultation with them. This budget will be known as a starred item, “\*”.
- 33.42.66** To seek the approval of the relevant committee to make a grant, which has not been specifically identified in the course of constructing the agreed capital budget, with the exception of private sector renewal grants and disabled facility grants
- 33.42.67** To expend sums in addition to the Council’s funding allocation, such as Capital grants or other contributions from partners to a scheme, on any scheme included in the approved budget only after seeking the approval of the relevant Committee and the Section 151 Officer.
- 33.42.68** To report to the relevant Committee for information where the effect of those additional sums mentioned in 33.42.66 is to alter the phasing of the capital programme. If the effect is to alter the phasing of the Council’s own financial input, the matter must be approved by Section 151 Officer.
- 33.42.69** To obtain the approval of the Section 151 Officer and seek the approval of the relevant committee in cases where a scheme is to be financed wholly from Section 106 funds of up to £50,000 for previously agreed schemes and with the relevant Committee in respect of schemes which are in excess of this amount, contrary to policy or exceed the agreed spending limits.

- 33.42.70** To make each capital budget head held on the Council's Financial Management System the responsibility of a specified officer. This shall be notified to the Section 151 Officer who shall allocate budgets, approved by Council, to those specified officers.
- 33.42.71** To make adequate arrangements for ensuring (as far as possible) that expenditure during any financial year on items within the capital budget or supplementary budget which are under their control do not exceed the amount approved.
- 33.42.72** To prepare and submit reports, jointly with the Section 151 Officer, to the relevant Committee, on any variation in project costs greater than the approved amount.
- 33.42.73** Capital expenditure for which there is no provision in the capital budget approved by the Council, shall not be incurred without the Council, on the recommendation of the relevant Committee, approving a supplementary budget, except in an extreme emergency (in this case the Director concerned must report on the matter to the next meeting of the relevant Committee).
- 33.42.74** Where a Director wishes to incur capital expenditure for which there is no provision or insufficient provision in the budget the Director may:
- (a) within or between Service Plan(s), under their control, make with the written approval of the Section 151 Officer, virement(s) known as variations to the capital programme or,
  - (b) with the agreement of other Directors, make with the written approval of the Section 151 Officer virement(s) known as variations to the capital programme between Service Plan capital budgets
  - (c) The financial limits of the above be in line with those detailed at section 33.11
- 33.42.75** Notwithstanding the authority conferred by Regulation 33.42.74, a Director must first seek the approval of:
- (a) the Section 151 Officer when the proposed virement is up to £50,000 and would result in expenditure being incurred for a purpose which was not envisaged at the time of agreeing the capital budget, or
  - (b) the relevant service committee when the proposed virement is between £50,000 and £100,000 and would result in objectives and / or targets stated in the relevant Service Plan not being fully achieved, or

- (c) Policy and Resources Committee when the proposed virement is more than £100,000 and would result in objectives and / or targets stated in the relevant Service Plan not being fully achieved

- 33.42.76** To provide reasons for the carry forward of any capital budget to the Section 151 Officer and where applicable the appropriate Committee.
- 33.42.77** To comply with the Council's procurement policy and regulations concerning the tendering processes to be undertaken in the acquisition of goods and services and the appointment of contractors, as set out in the Council's standing orders relating to contracts for the supply of works, goods or services.
- 33.42.78** To prepare and submit reports to relevant Committee, jointly with the Section 151 Officer, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount determined from time to time by the relevant Committee, and which shall initially be set at 3%.
- 33.42.79** To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Section 151 Officer and, if applicable, approval of the scheme through the capital programme.

## **MAINTENANCE OF RESERVES**

- 33.42.81 The local authority must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### **Key Controls**

- ~~33.42.82~~ To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the SORP)* (CIPFA/LASAAC) and agreed accounting policies.
- 33.42.83 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 33.42.84 Authorisation and expenditure from reserves by the appropriate Director in consultation with the Section 151 Officer.

### **Responsibilities of Section 151 Officer**

33.42.85 To advise the full Council on prudent levels of reserves for the authority, and to take account of the advice of the external auditor in this matter.

33.42.86 To report annually to Council as part of setting the budget.

### **Responsibilities of Directors**

33.42.87 To ensure that resources are used only for the purposes for which they were intended.

## **33.43.0 RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **RISK MANAGEMENT**

**33.43.1** All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the undertaking. 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.

**33.43.2** It is the overall responsibility of the Audit and Risk Committee to approve the authority's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

### **Key controls**

**33.43.3** The key controls for risk management are:

- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority
- (b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
- (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives

- (d) provision is made for losses that might result from the risks that remain
- (e) procedures are in place to investigate claims within required timescales
- (f) acceptable levels of risk are determined and insured against where appropriate
- (g) the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

### **Responsibilities of Chief Executive Officer**

- 33.43.4** To prepare and promote the authority's risk management strategy.
- 33.43.5** To develop risk management controls in conjunction with other Directors.

### **Responsibilities of Section 151 Officer**

- 33.43.6** To effect corporate insurance cover, through external insurance and the internal insurance fund, to negotiate all claims in consultation with other officers, where necessary and approve the payment of all claims from the internal insurance fund.
- 33.43.7** To review at least annually all insurances in consultation with other Directors.
- 33.43.8** To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- 33.43.9** For those insurable risks up to the value of £10,000, to have discretion in deciding whether these should be borne by external insurance or the internal fund. Additional risks in excess of £10,000 shall only be accepted for internal funding after seeking the approval of Audit and Risk Committee.
- 33.43.10** To make ex gratia payments for claims against the Council in respect of non personal injury up to the amount of £1,000.

## **Responsibilities of Heads of Service**

- 33.43.11** To notify the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the authority, and provide promptly any information or explanation required by the Section 151 Officer or the authority's insurers.
- 33.43.12** To take responsibility for risk management, having regard to advice from the Section 151 Officer and other specialists (e.g. crime prevention, fire prevention, internal audit, health and safety).
- 33.43.13** To ensure that there are regular reviews of risk within their departments, including inspections of all assets at frequencies appropriate to the potential risks relating to those assets.
- 33.43.14** To notify the Section 151 Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 33.43.15** To consult the Section 151 Officer and the Monitoring Officer on the terms of any indemnity that the authority is requested to give.
- 33.43.16** To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## **INTERNAL CONTROLS**

- 33.43.17** The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 33.43.18** The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 33.43.19** The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 33.43.20** The system of internal controls is established in order to provide measurable achievement of:
- (a) efficient and effective operations
  - (b) reliable financial information and reporting

- (c) compliance with laws and regulations
- (d) risk management.

### **Key Controls**

**33.43.21** The key controls and control objectives for internal control systems are:

- (a) key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, inspection and recording systems, segregation of duties, authorisation and approval procedures and information systems
- (d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Internal Auditing Guideline (Auditing Practices Board – 1990) as interpreted within the guidance for internal auditors, set out in CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

### **Responsibilities of Section 151 Officer**

**33.43.22** To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

### **Responsibilities of Heads of Service**

**33.43.23** To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

**33.43.24** To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from Section 151 Officer. Heads of Service should also be



responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

- 33.43.25** To ensure staff have a clear understanding of the consequences of lack of control.

## **AUDIT REQUIREMENTS**

### **INTERNAL AUDIT**

**33.43.26** 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 (SI 2015 No. 234), regulation 6, more specifically require that a relevant authority must ensure that it has a sound system of internal control which—

- (a) facilitates the effective exercise of its functions and the achievement of its aims and objectives;
- (b) ensures that the financial and operational management of the authority is effective; and
- (c) includes effective arrangements for the management of risk.

**33.43.27** Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

### **Key Controls**

**33.43.28** The key controls for internal audit are:

- (a) that it is independent in its planning and operation
- (b) the Head of Internal Audit has direct access to the Head of Paid Service, all levels of management and directly to elected members
- (c) the internal auditors comply with the Internal Auditing Guideline (Auditing Practices Board – 1990) as interpreted within the guidance for internal auditors, set out in CIPFA’s Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

## **Responsibilities of Section 151 Officer**

- 33.43.29** To ensure that internal auditors have the authority to:
- (a) access authority premises at reasonable times
  - (b) access all assets, records, documents, correspondence and control systems
  - (c) receive any information and explanation considered necessary concerning any matter under consideration
  - (d) require any employee of the authority to account for cash, stores or any other authority asset under his or her control
  - (e) access records belonging to third parties, such as contractors, when required
  - (f) directly access the Head of Paid Service, Policy and Resources Committee and the Audit and Risk Committee.
  - (g) To approve the strategic and annual audit plans prepared by the Head of Internal Audit, which take account of the characteristics and relative risks of the activities involved.
  - (h) To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

## **Responsibilities of Directors and Heads of Service**

- 33.43.30** To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 33.43.31** To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 33.43.32** To consider and respond promptly to recommendations in audit reports.
- 33.43.33** To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 33.43.34** To notify the Section 151 Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Head of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

- 33.43.35** To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Internal Audit prior to implementation.

## **EXTERNAL AUDIT**

- 33.43.36** The Local Audit and Accountability Act 2014 sets out the arrangements for the audit and accountability of local public bodies. The external auditor has rights of access to all documents and information necessary for audit purposes.
- 33.43.37** The basic duties of the external auditor are defined in the Audit Commission Act 1998 (as transitionally saved). The auditor providing an annual opinion on the Authority's financial statements in a letter to Members. This sets out the responsibilities of the Section 151 Officer and the auditor, the scope of the audit of the financial statements, as well as the opinion on the financial statements. It reports any exceptional matters, if applicable, and gives a conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in the use of resources.

### **Key Controls**

- 33.43.38** External auditors are appointed in accordance with section 7 of the Local Audit and Accountability Act 2014.

### **Responsibilities of Section 151 Officer**

- 33.43.39** To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- 33.43.40** To ensure there is effective liaison between external and internal audit.
- 33.43.41** To work with the external auditor and advise the full Council, Audit and Risk Committee, Directors and Heads of Service on their responsibilities in relation to external audit.

### **Responsibilities of Directors and Heads of Service**

- 33.43.42** To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- 33.43.43** To ensure that all records and systems are up to date and available for inspection.

## **PREVENTING FRAUD AND CORRUPTION**

- 33.43.44** The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.
- 33.43.45** The authority's expectation of propriety and accountability is that members and employees at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 33.43.46** The authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

### **Key Controls**

- 33.43.47** The key controls regarding the prevention of financial irregularities are that:
- (a) the authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption.
  - (b) all members and staff act with integrity and lead by example.
  - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt.
  - (d) high standards of conduct are promoted amongst members by the Standards Committee.
  - (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded.
  - (f) whistle blowing procedures are in place and operate effectively.
  - (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

### **Responsibilities of Section 151 Officer**

- 33.43.48** To develop and maintain an anti-fraud and anti-corruption policy.
- 33.43.49** To ensure that all suspected irregularities are reported to the Head of Internal Audit, the Head of the Paid Service, and, where the Head of the Paid Service considers it appropriate, the Audit and Risk Committee.

### **Responsibilities of Heads of Service**

- 33.43.50** To ensure that all suspected irregularities are reported to the Section 151 Officer.
- 33.43.51** To instigate the authority's local disciplinary procedures where the outcome of an audit or other investigation indicates improper behaviour.
- 33.43.52** To ensure that where financial impropriety is discovered, the Section 151 Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- 33.43.53** To maintain a departmental register of interests.
- 33.43.54** To maintain adequate and effective internal control arrangements.

## **ASSETS**

### **SECURITY**

- 33.43.55** The authority holds assets in the form of property, vehicles, equipment, furniture 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. Acquisitions and disposal of assets should be undertaken in accordance with the Council's Asset Management Plan and follow the more detailed procedures contained within Standing Orders relating to contracts for the supply of works, goods or services (para 21).

### **Key controls**

- 33.43.56** The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
- (a) resources are used only for the purposes of the authority and are properly accounted for.
  - (b) resources are available for use when required.
  - (c) resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits.
  - (d) an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this

record is updated as changes occur with respect to the location and condition of the asset.

- (e) all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation, found primarily in the Copyright, Designs and Patents Act 1988.
- (f) all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

### **Responsibilities of Section 151 Officer**

- 33.43.57** To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000. The function of the asset register is to provide the authority with information about fixed assets so that they are:
- safeguarded
  - used efficiently and effectively
  - adequately maintained.
- 33.43.58** To receive the information required for accounting, costing and financial records from each Head of Service.
- 33.43.59** To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the SORP)* (CIPFA/LASAAC).

### **Responsibilities of Directors and Heads of Service**

- 33.43.60** The appropriate Head of Service shall maintain a record in a form approved by the Section 151 Officer for all plant and machinery and moveable assets currently owned or used by the authority. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- 33.43.61** To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Head of Service in consultation with the Section 151 Officer, has been established as appropriate, which will include appropriate insurance cover.
- 33.43.62** To ensure the proper security of all buildings and other assets under their control.

- 33.43.63** Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a report by the Director concerned to the relevant Committee which shall make a recommendation on the asset's future to Council.
- 33.43.64** To pass title deeds to the Monitoring Officer/Legal who is responsible for custody of all title deeds.
- 33.43.65** To ensure that no authority asset is subject to personal use by an employee without proper authority.
- 33.43.66** To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- 33.43.67** To ensure that the department maintains a register (inventory) of moveable assets in accordance with arrangements defined by the Section 151 Officer.
- 33.43.68** To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 33.43.69** To consult the Head of Internal Audit in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 33.43.70** To ensure cash holdings on premises are kept to a minimum and securely at all times.
- 33.43.71** To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Section 151 Officer as soon as possible.
- 33.43.72** To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Section 151 Officer, the Policy and Resources Committee agrees otherwise.
- 33.43.73** To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer.
- 33.43.74** To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

## **INVENTORIES**

## **Responsibilities of Directors and Head of Service**

- 33.43.75** To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery under their control.
- 33.43.76** To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- 33.43.77** To make sure that property is only used in the course of the authority's business, unless the Director concerned has given permission otherwise.

## **STOCKS**

### **Responsibilities of Directors and Head of Service**

- 33.43.78** To make arrangements for the care and custody of stocks and stores in the department.
- 33.43.79** To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- 33.43.80** To investigate and remove from the authority's records (i.e. write off) discrepancies as necessary after consultation with the Section 151 Officer, or to obtain the Policy and Resources Committee approval if they are in excess of £10,000.
- 33.43.81** To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Section 151 Officer, the Policy and Resources Committee decides otherwise in a particular case.
- 33.43.82** To seek Section 151 Officer approval to the write-off of redundant stocks and equipment in excess of a £1,000 for any individual item or £5,000 for any group of items.
- 33.43.83** To supply the Section 151 Officer with certificates of stock held at the end of each financial year, together with such returns as may be required by the Section 151 Officer to complete the accounts of the Council.



## **INTELLECTUAL PROPERTY**

- 33.43.84** Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various Acts of Parliament cover different types of intellectual property.
- 33.43.85** Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

### **Key Controls**

- 33.43.86** In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures.

### **Responsibilities of Section 151 Officer**

- 33.43.87** To develop and disseminate good practice through the authority's intellectual property procedures.

### **Responsibilities of Heads of Service**

- 33.43.88** To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

## **ASSET DISPOSAL**

(Asset acquisition is covered in Standing Orders relating to contracts for the supply of works, goods or services – Article 29.)

- 33.43.89** It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

### **Key Controls**

- 33.43.90** Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

- 33.43.91** Procedures protect staff involved in the disposal from accusations of personal gain.

### **Responsibilities of Section 151 Officer**

- 33.43.92** To issue guidelines representing best practice for disposal of assets, other than property, for which the Chief Executive shall be responsible.
- 33.43.93** To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

### **Responsibilities of Chief Executive**

- 33.43.94** To issue guidelines representing best practice for disposal and / or acquisition of property, in accordance with the Council's Asset Management Plan.

### **Responsibilities of Directors and Heads of Service**

- 33.43.95** To seek advice from the appropriate Director on the disposal of surplus or obsolete property, materials, stores or equipment.
- 33.43.96** To ensure that income received for the disposal of an asset is properly banked and coded.

## **TREASURY MANAGEMENT**

- 33.43.97** Many millions of pounds pass through the authority's accounts each year. This led to the establishment of codes of practice. These aim to provide assurances that the authority'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 authority's capital sum.

### **Key Controls**

- 33.43.98** That the authority's borrowings and investments comply with the CIPFA's Treasury Management in Local Authorities - Code of Practice, the Department for Communities and Local Government Investment Guidance, and with the authority's Treasury Management Policy Statement.
- 33.43.99** The Council adopts the key recommendations of CIPFA's – "Treasury Management in the Public Services: Code of Practice" (the code), as described in section 4 of that code.
- 33.43.100** The Council will create and maintain, as the cornerstones for effective treasury management:

- a Treasury Management Policy Statement, stating the policies and objectives of its treasury management activities,
- suitable treasury management practices (TMP's), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

**33.43.101** The Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its close in the form described in the TMP's.

**33.43.102** The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Policy and Resources Committee, and for the execution and administration of treasury management decisions to the Section 151 Officer, who will act in accordance with the council's policy statement and TMP's and, if he / she is a CIPFA member, CIPFA's standard of professional practice on treasury management.

**Responsibilities of Section 151 Officer – treasury management and banking**

**33.43.103** To arrange the borrowing and investments of the authority in such a manner as to comply with CIPFA's Treasury Management in Local Authorities - Code of Practice, the Department for Communities and Local Government Investment Guidance, and the authority's annual Treasury Management Policy Statement.

**33.43.104** To report to the Policy and Resources Committee at or before the start of each financial year on the Treasury Management Strategy proposed for the coming financial year and not less than once in each financial year on treasury management activities undertaken during the course of the year and the exercise of delegated treasury management powers. One such report shall comprise an annual report on treasury management for presentation by 31 July of the succeeding financial year.

**33.43.105** To operate bank accounts as are considered necessary. The opening or closing of any bank account shall require the approval of the Section 151 Officer. These accounts shall be operated within the following guidelines:

- (a) The Section 151 Officer shall at least every five years review the Council's banking arrangements.
- (b) Cheques and other payment forms shall be ordered only on the authority of the Section 151 Officer, who shall make proper arrangements for their safe custody.

- (c) Cheques and transfers between bank accounts may only be signed by those officers so authorised by the Council.
- (d) Cheques drawn on the Council's main bank accounts may bear the facsimile signature of the Chief Executive.
- (e) Cheques not exceeding £5,000 shall bear one signature, which may be the Chief Executive's facsimile signature.
- (f) Cheques over £5,000 but not exceeding £100,000 shall bear one handwritten signature of any of the authorised signatories, one of which may also be that of the Chief Executive, whose facsimile signature may also be on the cheque.
- (g) Cheques over £100,000 shall bear the handwritten signatures of any two of the authorised signatories, one of which may also be that of the Chief Executive, whose facsimile signature may also be on the cheque.
- (h) Regulations (a), (b) and (c) above shall also apply to any other instructions for sums to be paid out of any of the Council's bank or other accounts.
- (i) A payment using the Clearing House Automatic Payments System (CHAPS) via the electronic processing system, may only be made after the details input into the electronic processing system have been checked, signed, dated and timed by one authorised officer and subsequently approved upon the electronic processing system by another authorised officer.
- (j) If the electronic processing system is not used, a CHAPS payment may be made by transmitting a facsimile instruction to the Council's bankers, only after that instruction has been signed by two different authorised signatories.

**33.43.106** The Section 151 Officer shall be authorised to incur an overdraft at the Council's bank not exceeding a figure as may be determined by the Council.

### **Responsibilities of Directors and Heads of Service – treasury management and banking**

**33.43.107** To follow the instructions on banking issued by the Section 151 Officer.

### **Responsibilities of Section 151 Officer – investments and borrowing**

**33.43.108** All decisions on borrowing, investment, leasing or capital financing shall be delegated to the Section 151 Officer who shall be required to act in accordance with CIPFA's 'Treasury Management in Local Authorities - Code of Practice'.

- 33.43.109 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the full council.
- 33.43.110 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the Section 151 Officer.
- 33.43.111 To effect all borrowing in the name of the authority.
- 33.43.112 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

**Responsibilities of Directors and Heads of Service – investments and borrowing**

- 33.43.113 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the full Council, following consultation with the Section 151 Officer.

**Responsibilities of Section 151 Officer – funds held for third parties**

- 33.43.114 To arrange, where funds are held on behalf of third parties, for their secure administration, and to maintain written records of all transactions.
- 33.43.115 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

**Responsibilities of Directors and Heads of Service – funds held for third parties**

- 33.43.116 To arrange for all funds received in trust, and / or on behalf of third parties, to be notified to the Section 151 Officer in order that the Section 151 Officer may make suitable arrangements for those funds to be held, on account, in the name of the local authority, unless otherwise agreed by the Section 151 Officer.
- 33.43.117 All officers acting as trustees by virtue of their official position shall deposit any sums relating to the third party with the Section 151 Officer and request any payment from such funds via the Section 151 Officer.

**Responsibilities of Section 151 Officer - imprest (petty cash) accounts**

- 33.43.118 To authorise the provision of such petty cash accounts to meet minor expenditure on behalf of the authority as are considered appropriate and to prescribe rules for operating these accounts. Such accounts are to be used to defray minor items of expenditure

and should not exceed the amount prescribed from time to time by the Section 151 Officer.

33.43.119 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.

### **Responsibilities of Directors and Heads of Service – imprest (petty cash) accounts**

33.43.120 To ensure that employees operating a petty cash account:

- (a) obtain and retain vouchers to support each payment from the account. Where appropriate, an official receipted VAT invoice must be obtained
- (b) make adequate arrangements for the safe custody of the cash and vouchers.
- (c) produce upon demand by the Section 151 Officer cash and all vouchers to the total value of the amount issued
- (d) record transactions promptly
- (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the account holder
- (f) provide the Section 151 Officer with a certificate of the value of the account held at 31 March each year
- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made. Income received on behalf of the Council must not be paid into the account but banked or paid to the Council as provided by Regulation 4.20.
- (h) on leaving the authority's employment or otherwise ceasing to be entitled to hold a petty cash account, an employee shall account to the Head of Service concerned for the amount advanced to him or her.

### **STAFFING**

33.43.121 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

## **Key Controls**

33.43.122 The key controls for staffing are:

- (a) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- (b) procedures are in place for forecasting staffing requirements and cost
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

## **Responsibilities of Section 151 Officer**

33.43.123 To produce an annual staffing budget in liaison with Directors and Heads of Service, ensuring that budget provision exists for all existing employees, vacant posts approved to be filled during the financial year and any approved new positions to be filled during the financial year.

## **Responsibilities of Directors and Heads of Service**

33.43.124 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

33.43.125 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

33.43.126 To ensure that the Section 151 Officer is immediately informed if the staffing budget is likely to be materially (over £5,000 or 10% of the budget whichever is lower) over- or under-spent.

## **33.44.0 FINANCIAL SYSTEMS AND PROCEDURES**

### **GENERAL**

**33.44.1** Services have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Departments are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

**33.44.2** The Section 151 Officer has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

### **Key Controls**

**33.44.3** The key controls for systems and procedures are:

- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
- (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
- (c) early warning is provided of deviations from target, plans and budgets that require management attention
- (d) operating systems and procedures are secure.

### **Responsibilities of Section 151 Officer**

**33.44.4** To make arrangements for the proper administration of the authority's financial affairs, including to:

- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
- (b) determine the accounting systems, form of accounts and supporting financial records
- (c) establish arrangements for audit of the authority's financial affairs
- (d) approve any new financial systems to be introduced
- (e) approve any changes to be made to existing financial systems.

### **Responsibilities of Directors and Heads of Service**

**33.44.5** To ensure that accounting records are properly maintained and held securely.

**33.44.6** To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Section 151 Officer.

**33.44.7** To ensure that a complete audit trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.



- 33.44.8** To incorporate appropriate controls to ensure that, where relevant:
- (a) all input is genuine, complete, accurate, timely and not previously processed
  - (b) all processing is carried out in an accurate, complete and timely manner
  - (c) output from the system is complete, accurate and timely.
- 33.44.9** To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 33.44.10** To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 33.44.11** To ensure that systems are documented and staff trained in operations.
- 33.44.12** To consult with the Section 151 Officer before changing any existing system or introducing new systems.
- 33.44.13** To establish a scheme of delegation identifying officers authorised to act upon the Director's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 33.44.14** To supply lists of authorised officers, with specimen signatures and delegated limits, to the Section 151 Officer for approval, together with any subsequent variations.
- 33.44.15** To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 33.44.16** To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 33.44.17** To ensure that relevant standards and guidelines for computer systems issued by Directors or Heads of Service are observed.
- 33.44.18** To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.

**33.44.19** To comply with the Copyright, Designs and Patents Act 1988 and subsequent legislation and, in particular, to ensure that:

- (a) only software legally acquired and installed by the authority is used on its computers
- (b) staff are aware of legislative provisions
- (c) in developing systems, due regard is given to the issue of intellectual property rights.

## **INCOME AND EXPENDITURE**

### **INCOME**

**33.44.20** 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 authority's cashflow and also avoids the time and cost of administering debts.

### **Key Controls**

**33.44.21** The key controls for income are:

- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
- (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- (c) all money received by an employee on behalf of the authority is paid without delay to the Head of Customer Services (cashiers) or, as the Section 151 Officer directs, to the authority's bank account, and properly recorded. The responsibility for cash collection should be separated from that:
  - for identifying the amount due
  - for reconciling the amount due to the amount received
- (d) effective action is taken to pursue non-payment within defined timescales
- (e) formal approval for debt write-off is obtained
- (f) appropriate write-off action is taken within defined timescales

- (g) appropriate accounting adjustments are made following write-off action
- (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process in a timely manner.

### **Responsibilities of Section 151 Officer**

- 33.44.22** To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- 33.44.23** To approve, or to order and supply to Services, all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- 33.44.24** To approve all debts to be written off in consultation with the relevant Directors up to the approved limit of £2,500 for each individual debt.

### **Responsibilities of Directors and Heads of Service**

- 33.44.25** To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- 33.44.26** To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 33.44.27** To establish and initiate appropriate recovery procedures in consultation with the Section 151 Officer, including legal action where necessary, for debts that are not paid promptly.
- 33.44.28** To issue official receipts or to maintain other documentation for income collection.
- 33.44.29** To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 33.44.30** To hold securely receipts, tickets and other records of income for the appropriate period.
- 33.44.31** To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

- 33.44.32** To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail.
- 33.44.33** To ensure income is not used to cash personal cheques or other payments.
- 33.44.34** To supply the Section 151 Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Section 151 Officer to record correctly the sums due to the authority and to ensure accounts are sent out promptly. Income due to the Council should not generally be demanded by means other than the raising of accounts. Heads of Service have a responsibility to assist the Section 151 Officer in collecting debts that they have originated, providing any further information requested by the debtor, and pursuing the matter on the authority's behalf.
- 33.44.35** To ensure that levels of cash held in secure safes on premises under their control do not exceed the approved level set by the Section 151 Officer.
- 33.44.36** To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 33.44.37** To recommend to the Section 151 Officer all debts to be written off and to keep a record of all sums written off up to the approved limit (£2,500 as detailed in 33.44.24 above).
- 33.44.38** Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 33.44.39** To obtain the approval of the Section 151 Officer when writing off debts, and the approval of the relevant Committee Chair, where required, i.e. for the writing off of debts in excess of £2,500.
- 33.44.40** To notify the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer and in any event, not later than 30 April.
- 33.44.41** To ensure that appropriate accounting adjustments are made following write-off action.

## **ORDERING AND PAYING FOR WORK, GOODS AND SERVICES**

**33.44.42** Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the authority's Standing Orders relating to contracts for the supply of works, goods or services.

## **General**

**33.44.43** Every member and employee of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and / or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.

**33.44.44** Official orders must be in a form approved by the Section 151 Officer. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Section 151 Officer. Standard terms and conditions must not be varied without the approval of the Section 151 Officer.

**33.44.45** Apart from petty cash, the normal method of payment from the authority shall be by cheque or other instrument or approved method, drawn on the authority's bank account by the Section 151 Officer. The use of direct debit shall require the prior agreement of the Section 151 Officer.

**33.44.46** Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

## **Key Controls**

**33.44.47** The key controls for ordering and paying for work, goods and services are:

- (a) all goods and services are ordered only by authorised persons and are correctly recorded
- (b) all goods and services shall be ordered in accordance with the authority's standing orders relating to contracts for the supply of works, goods or services, unless they are purchased from sources within the authority
- (c) goods and services received are checked to ensure they are in accordance with the order. Where practical, goods should not be received by the person who placed the order

- (d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
- (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
- (h) in addition, the effect of e-business / e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

### **Responsibilities of Section 151 Officer**

- 33.44.48** To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 33.44.49** To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 33.44.50** To approve the form of official orders and, in conjunction with the Section 151 Officer, the associated terms and conditions.
- 33.44.51** To make payments from the authority's funds on the Head of Services authorisation (or by other officer's under delegated powers awarded by a Director or Head of Service) that the expenditure has been duly incurred in accordance with financial regulations.
- 33.44.52** To make payments, whether or not provision exists within the budget, where the payment is specifically required by statute or is made under a court order.
- 33.44.53** To make payments to contractors on the certificate of the appropriate Head of Service, (or by other officer's under delegated powers awarded by a Director or Head of Service) which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 33.44.54** To provide advice and encouragement on making payments by the most economical means.

**33.44.55** To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

### **Responsibilities of Directors and Head of Service**

**33.44.56** To ensure that unique pre-numbered official orders (as generated from the electronic purchase ordering system) are used for all goods and services, other than the exceptions specified in 33.44.44.

**33.44.57** To ensure that orders are only used for goods and services provided to the Service. Individuals must not use official orders to obtain goods or services for their private use.

**33.44.58** To ensure that only those staff authorised by him or her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurement. Value for money should always be achieved.

**33.44.59** To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should be carried out by a different officer from the person who authorised the order.

**33.44.60** To ensure that payment is not made unless a proper VAT invoice addressed to the Council has been received, checked, coded and certified for payment, confirming:

- (a) receipt of goods or services
- (b) that the invoice is addressed in the name of the Council and has not previously been paid
- (c) that expenditure has been properly incurred and is within budget provision
- (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
- (e) correct accounting treatment of tax
- (f) that the invoice is correctly coded
- (g) that discounts have been taken where available

(h) that appropriate entries will be made in accounting records.

- 33.44.61** To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- 33.44.62** To ensure that the Service maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Section 151 Officer for approval.
- 33.44.63** To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the Section 151 Officer.
- 33.44.64** To ensure that the Service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, in line with best value principles and the authority's Standing orders relating to contracts for the supply of works, goods or services.
- 33.44.65** To utilise any central purchasing procedures available in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the Standing orders relating to contracts for the supply of works, goods or services and will cover:
- (a) authorised officers and the extent of their authority
  - (b) advertisement for tenders
  - (c) procedure for creating, maintaining and revising a standard list of contractors
  - (d) selection of tenderers
  - (e) compliance with UK and EU legislation and regulations
  - (f) procedures for the submission, receipt, opening and recording of tenders
  - (g) the circumstances where financial or technical evaluation is necessary
  - (h) procedures for negotiation
  - (i) acceptance of tenders



- (j) the form of contract documentation
- (k) cancellation clauses in the event of corruption or bribery
- (l) contract records.

**33.44.66** To ensure that employees are aware of the National code of conduct for local government employees contained in the Great Yarmouth Borough Council - Employees Handbook.

**33.44.67** To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Section 151 Officer. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

**33.44.68** To notify the Section 151 Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined annually by Section 151 Officer and, in any case, not later than 30 April.

**33.44.69** With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Section 151 Officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

**33.44.70** To notify the Section 151 Officer immediately of any expenditure to be incurred as a result of statute / court order where there is no budgetary provision.

**33.44.71** To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

**33.44.72** Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by the full council.

### **Key Controls**

- 33.44.73** The key controls for payments to employees and members are:
- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
    - starters
    - leavers
    - variations
    - enhancementsand that payments are made on the basis of timesheets or claims
  - (b) frequent reconciliation of payroll expenditure against approved budget
  - (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
  - (d) that HM Revenue and Customs regulations are complied with.

### **Responsibilities of Chief Executive**

- 33.44.74** To arrange and control secure and reliable payment of salaries, wages, or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her with the approval of the Chief Executive on the due date.
- 33.44.75** To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 33.44.76** To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 33.44.77** To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 33.44.78** To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 33.44.79** To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.
- 33.44.80** To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

### **Responsibilities of Directors and Heads of Service**

- 33.44.81** To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 33.44.82** To notify the Section 151 Officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Section 151 Officer.
- 33.44.83** To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 33.44.84** To send an up-to-date list of the names of officers authorised to sign records to the Section 151 Officer, together with specimen signatures, who shall make available to the Section 151 Officer copies of those signatures of officers authorised to sign timesheets and claims.
- 33.44.85** To ensure that payroll transactions are processed only through the payroll system. Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HM Revenue and Customs applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Section 151 Officer.
- 33.44.86** To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Section 151 Officer is informed where appropriate.
- 33.44.87** To ensure that claims for expenses and travel allowances are made in a timely manner and not more than two months from the date they were incurred. Claims made after this period will only be paid in exceptional circumstances at the discretion of the Section 151 Officer. VAT receipts for petrol in respect of car mileage claims must be attached and of sufficient value to cover the total number of miles being claimed.
- 33.44.88** To ensure that the Section 151 Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

## **Responsibilities of Members**

**33.44.89** To submit claims for members' expenses and travel allowances on a monthly basis and, in any event, within one month of the yearend.

## **TAXATION**

**33.44.90** Like all organisations, the authority 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.

### **Key Controls**

**33.44.91** The key controls for taxation are:

- (a) Heads of Service are provided with relevant information and kept up to date on tax issues
- (b) Heads of Service are instructed on required record keeping
- (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- (d) records are maintained in accordance with instructions
- (e) returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibilities of Section 151 Officer**

**33.44.92** To complete a monthly return of VAT inputs and outputs to HM Revenue and Customs.

**33.44.93** To provide details to HM Revenue and Customs regarding the construction industry tax deduction scheme.

### **Responsibilities of Directors and Heads of Service**

**33.44.94** To ensure that the correct VAT liability is attached to all income due and that all recoverable VAT complies with HM Revenue and Customs regulations.

**33.44.95** To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

**33.44.96** To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where

the individuals are bona fide self-employed or are employed by a recognised staff agency.

### **33.45.0 EXTERNAL ARRANGEMENTS**

#### **PARTNERSHIPS**

**33.45.1** Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver 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.

**33.45.2** 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.

#### **General**

**33.45.3** The main reasons for entering into a partnership are:

- (a) the desire to find new ways to share risk
- (b) the ability to access new resources
- (c) to provide new and better ways of delivering services
- (d) to forge new relationships.

**33.45.4** A partner is defined as either:

- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
- (b) a body whose nature or status give it a right or obligation to support the project.

**33.45.5** Partners participate in projects by:

- (a) acting as a project deliverer or sponsor, solely or in concert with others
- (b) acting as a project funder or part funder
- (c) being the beneficiary group of the activity undertaken in a project.

**33.45.6** Partners have common responsibilities:

- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
- (c) be open about any conflict of interests that might arise
- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- (f) to act wherever possible as ambassadors for the project.

## **Key Controls**

**33.45.7** The key controls for authority partners are:

- (a) if appropriate, to be aware of their responsibilities under the authority's financial regulations and Standing orders relating to contracts for the supply of works, goods or services.
- (b) to ensure that risk management processes are in place to identify and assess all known risks
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution

## **Responsibilities of Section 151 Officer**

**33.45.8** To advise on effective controls that will ensure that resources are not wasted.

**33.45.9** To advise on the key elements of funding a project. They include:

- (a) scheme appraisal for financial viability in both the current and future years
- (b) risk appraisal and management
- (c) resourcing, including taxation issues
- (d) audit, security and control requirements
- (e) carry-forward arrangements.

**33.45.10** To ensure that the accounting arrangements are satisfactory.

## **Responsibilities of Directors and Heads of Service**

- 33.45.11** To obtain the approval of the Executive Leadership Team and the Policy and Resources Committee before entering into any negotiations which may lead to partnership working by the Council either as lead partner or participant.
- 33.45.12** To ensure that, before entering into agreements with external bodies, financial and risk management appraisals have been prepared for the Section 151 Officer and that the impact on the Council's budget is clearly identified
- 33.45.13** To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.
- 33.45.14** To ensure that all agreements and arrangements are properly documented.
- 33.45.15** To provide appropriate information to the Section 151 Officer to enable a note to be entered into the authority's statement of accounts concerning material items.

## **EXTERNAL FUNDING**

- 33.45.16** 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 authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery, single regeneration budget, neighbourhood renewal fund and others provide additional resources to enable the authority 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 authority's overall plan.

## **Key Controls**

- 33.45.17** The key controls for external funding are:
- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
  - (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council

- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of Section 151 Officer**

- 33.45.18** To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.
- 33.45.19** To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- 33.45.20** To ensure that audit requirements are met.
- 33.45.21** To ensure that all claims for funds are made by the due date.

### **Responsibilities of Directors and Heads of Service**

- 33.45.22** To ensure that all information to support claims for funds are made by the due date.
- 33.45.23** To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

### **WORK FOR THIRD PARTIES**

- 33.45.24** Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

### **Key Controls**

- 33.45.25** The key controls for working with third parties are:
  - (a) to ensure that proposals are costed properly in accordance with guidance provided by the Section 151 Officer.
  - (b) to ensure that contracts are drawn up using guidance provided by the Section 151 Officer and that the formal approvals process is adhered to.
  - (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **Responsibilities of Section 151 Officer**



**33.45.26** To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **Responsibilities of Heads of Service**

**33.45.27** To ensure that the approval of the Policy and Resources Committee is obtained before any negotiations are concluded to work for third parties.

**33.45.28** To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Section 151 Officer.

**33.45.29** To ensure that appropriate insurance arrangements are made in accordance with the requirements of the Section 151 Officer.

**33.45.30** To ensure that the authority is not put at risk from any bad debts.

**33.45.31** To ensure that no contract is subsidised by the authority.

**33.45.32** To ensure that, wherever possible, payment is received in advance of the delivery of the service.

**33.45.33** To ensure that the Service / unit has the appropriate expertise to undertake the contract.

**33.45.34** To ensure that such contracts do not impact adversely upon the services provided for the authority.

**33.45.35** To ensure that all contracts are properly documented.

**33.45.36** To provide appropriate information to the Section 151 Officer to enable a note to be entered into the annual statement of accounts.

## **ARTICLE 34 - CONTRACT STANDING ORDERS**

### **34.1 SECTION 1 – Context**

#### **34.1.1 Purpose**

These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972. They do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out the minimum requirements to be followed. Further information and guidelines are set out in the Council's Procurement Guide.

The overall purpose of these Contract Standing Orders is threefold:

- a) to ensure probity, transparency and equality in the procurement of works, goods and services.
- b) to ensure the Council gets best value from its procurements.
- c) to protect those involved in the procurement process.

#### **34.1.2.1 Scope**

These Contract Standing Orders apply to all contracts for goods, services, works, concessions and capital projects undertaken by or on behalf of the Council with the exception of:

- a) the acquisition of any interest in land or property.
- b) the lending or borrowing of money.
- c) employment of an individual employee.
- d) the disposal of property (including any interest in land).
- e) the engagement of Counsel.
- f) the awarding of Grants.

For the purposes of this document a contract is defined as any circumstance where goods, services or works are acquired, and there is an understanding by both parties that payment will be made in exchange for this.

The scope of the procurement process is from the identification of a requirement through to the completion of any arrangement to fulfil that requirement, including the management of that arrangement and potentially the disposal of any products of the arrangement that are not required.

#### **34.1.3 Authorities and controls**

Procurement Authority is delegated by the Council to the Heads of Service who may delegate to officers who have the necessary requirements in the course their normal

duties. The Executive Leadership Team (ELT) takes a strategic role in procurement and is responsible for receiving reports and responding to audit requirements.

The role of Directors is to responsibly consider and approve or otherwise situations detailed in these Contract Standing Orders where there is an increase risk to the Council, including circumstances where there is insufficient competition and where the value/risk of a contract is assessed as high.

The Role of Heads of Service is to support the corporate regulations and procedures whilst ensuring that the both the spirit and the letter of the Contract Standing Orders are complied with. Also to involve a Director where a purchase is complex, requires special terms of contract, or contract extension, even when the requirement is within the buyer's delegated procurement authority.

Procurement authority is defined as the limit that the budget holder can spend within their budget authority with a single supplier. No commitment to purchase, contract, lease, hire, or rent goods, services or works on behalf of the Council can be made without appropriate budget authority and delegated procurement authority.

Budget Authority rests with the Budget Holder. All expenditure must have prior budgetary approval. A budget is approved when the Budget Holder has received approval through the budget process for the annual budget. However, the Budget Holder must follow the Council's standards for specific goods and services. For particular categories of expenditure technical experts, governance boards or teams are responsible for specifying products and services e.g. IT & stationery, and approval must be sought from these experts to procure alternative goods and services, or to use alternative sources of supply.

Budget authority permits the Budget Holder to authorise, sign or issue purchase orders or contracts, or make any other form of commitment to suppliers within the limits of their delegated authority and with due regard to these Contract Standing Orders.

Refer to Article 31 - Procurement Authority Thresholds

#### 34.1.4 Segregation of duties

The activities relating to the contracting and procurement processes are segregated between the following phases:

- Purchase Order
- Commitment (contract signatory) / Authorisation
- Receipt
- Payment

Segregation of duties must exist between raising Purchase Orders and commitment of expenditure and also receipt and payment.

#### 34.1.5 Officer conduct

**a) Conflict of interests of officers**

Officers employed by the Council must comply with Paragraph 37.2.1.3 of the Council's "Code of Conduct", relating to conflicts of interest.

**b) Ethical procurement**

Procurement should only be undertaken by officers adhering to the strictest professional standards. The Council recognises the Chartered Institute of Procurement & Supply (CIPS) Code of Conduct<sup>1</sup> as the appropriate standard.

### 34.1.6 Audit requirements

All Budget Holders must be aware that their procurement actions will be subject to Internal and External Audit examination, to ensure that procurement is carried out in a proper and business-like manner and in strict adherence to the Council's Contract Standing Orders.

Decisions on procurement actions must be recorded on file to provide an acceptable audit trail. This is particularly important in respect of:

- The Procurement Plan.
- Clarification and contract reviews as part of contract management.
- Full tender documents including a record of evaluation processes that will be held on the e-procurement system.

These are the most important examples; the list is neither exhaustive nor exclusive. If a Budget Holder is ever in doubt about whether facts need to be recorded, it is advisable to err on the side of caution and record them.

It is equally important to note that recording of facts in these circumstances should not be excessive. Records should be sufficient to give a reasonably easily understood picture of events to someone reading them for the first time and to assist others to explain the reasoning behind decisions.

## 34.2 SECTION 2 – Procurement Options

### 34.2.1 Existing contracts

**Where a Contract has been awarded it must be used for all requirements that relate to that contract. A detailed contracts register will be maintained by the Council and made available for all Budget Holders to access on the e-Procurement system, which is also publicly available.**

The Council and its contracted Suppliers make a considerable investment in negotiating and preparing contracts and when a contract has been awarded to a contractor it must be honoured. To place purchase orders / contracts with alternative

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<sup>1</sup> <https://www.cips.org/aboutcips/CIPS-Code-of-Conduct/>

suppliers other than the contract holder may frustrate the contract and open the Council to expensive litigation.

On the exceptional occasions where a Budget Holder feels that better value can be obtained from sources alternative to those that have been awarded a Council contract, approval to use those alternatives must be first obtained from the Head of Service and the Section 151 Officer before awarding a competing contract for similar requirements.

### 34.2.2 Framework Arrangements

In this Standing Order, a Framework Agreement is a formal tendered arrangement which sets out terms and conditions under which specific purchases can be made throughout the term of the agreement. The appropriate Budget Holder may procure supplies, services or works from the successful framework tenderer(s) in unpredicted quantities at various times during the period that the agreement is in force. For this purpose, a Framework Arrangement may be internal i.e. set up by the Council, or external i.e. set up by CCS, ESPO or some other Consortium, association or similar body of which the Council is a member or party. Consideration must be given as to whether the Council could achieve increased value for money by joining an existing consortium to enable it to benefit from using pre-tendered framework agreements and whether any charges for this represent a good investment.

If there is no previously existing framework agreement and the requirement is of an ongoing nature and may require more than one supplier, or if the volume of the requirement over the contract term is uncertain, the Budget Holder must consider whether creating a framework arrangement would better meet the requirement.

When advertising for a Framework Agreement the advertisement must indicate:

- a) That it is a Framework Agreement which is being tendered.
- b) The parties eligible to participate in the Framework Agreement.
- c) The duration of the Agreement.
- d) The expected maximum number of suppliers.
- e) The estimated total value of the contracts to be covered by the Agreement.
- f) The award criteria for choosing suppliers and subsequent criteria for placing orders.

### 34.2.3 New contract development

When a Contract does not exist to meet a requirement the Budget Holder must follow the appropriate Competitive Process in compliance with Contract Thresholds<sup>2</sup> and risk assessment.

A requirement can often be met through a range of business models, including a direct contract, use of an existing framework, creation of a new framework or Dynamic Purchasing System, collaboration with another public body, or creation of a wholly owned or Joint Venture Company. The Budget Holder must be clear as to

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<sup>2</sup> Refer to Appendix B - Procurement Authority Thresholds

which option will provide the best outcome and must record this in the Procurement Plan where appropriate. In all cases questions 1 to 5 of the procurement plan must be answered and retained.

### **34.3 SECTION 3 - Legislation**

#### **34.3.1 The Public Services (Social Value) Act 2012**

The Act requires that the Council has regard to economic, social and environmental well-being in connection with public services contracts and considers the following in all procurement exercises for services:

- a) how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and
- b) how, in conducting the process of procurement, it might act with a view to securing that improvement.

The Council must consider (under subsection (3)(b) of the Act) only matters that are relevant to what is proposed to be procured and, in doing so, must consider the extent to which it is proportionate in all the circumstances to take those matters into account.

When the Council undertakes an assessment of the categories of services that it procures, to evaluate those that are high risk or where there is scope to achieve social benefit, particular effort will be made to both reduce adverse impacts and maximize opportunities whilst understanding, valuing and building on existing social capital and community assets and creating a positive ongoing impact on communities.

#### **34.3.2 Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE)**

In relation to contracts where there is likelihood that employees may be transferred to a new employer the invitation to tender will state that the Council assumes that TUPE will apply unless evidence to the contrary is produced. It will then be the Council's responsibility to ensure that tenderers have access to the appropriate information to allow them to fully consider any impact that TUPE may have on their tender.

#### **34.3.3 HMRC Requirements – Engagement of Individuals**

The Council is obliged to check that all individuals who are engaged by the Council in a self-employed capacity, e.g. Sports Coaches, Consultants, etc., who submit invoices and are paid via the creditors system; must now provide evidence of their compliance with HMRC requirements with regards to declaring their income tax and National Insurance liabilities. It does not apply to agency staff or staff employed by the Council on a fixed-term or casual basis.

All new suppliers must complete the Supplier Form prior to an order being placed for services. The form requests an individual's Unique Taxpayer Reference (UTR),

which must be supplied prior to any payments being made. If an individual cannot provide this number, they are not to be engaged.

## **34.4 SECTION 4 – Pre-Procurement**

### **34.4.1 Contract value**

Before any procurement is begun the appropriate Budget Holder must estimate the value of the contract and must keep a written record of that estimate as part of the Procurement Plan in the Department (see Article 34 for the procurement Plan template).

a) In the case of contracts for:

- i) the hire of goods for an indeterminate period, or
- ii) the provision of services for a period in excess of 4 years or for an indeterminate period,

the estimated value of the contract must be the estimated monthly cost multiplied by 48 or, where monthly costs are inappropriate, the estimated annual cost multiplied by 4.

b) In the case of contracts for the supply of goods or services over a period where the Council wishes to call off as required or has a series of regular requirements by standing order the estimated value of the contract is either:

- i) the aggregate value of similar contracts over the previous 12 months (adjusted for any known changes in demand);
- ii) the estimated value of similar contracts over the next 12 months; or
- iii) if the contract is for a definite term of more than 12 months, the estimated value for the period of the contract.

c) For all supplies, services and works not covered by the above, the estimated value for the purpose of these Standing Orders must be the total estimated value of the supplies, services or works to be supplied over the period covered by the contract.

d) The value of a concession for the purpose of this Standing Order is the estimated gross value of the service before income.

#### 34.4.2 Aggregation of demand

**The separation of a requirement (disaggregation) into several smaller orders or contracts to avoid seeking the correct Procurement Authority or to avoid appropriate levels of competition is not permitted.**

When a Budget Holder instigates a quotation / tender procedure they must inform the Head of Service or their delegated manager of that requirement to enable the potential for aggregation across the Council to be managed.

#### 34.4.3 Market research

Access to accurate and relevant commercial intelligence and knowledge of the marketplace is necessary in deciding which procurement option is best. Relevant markets need to be researched and understood, however, care must be taken to ensure this does not distort competition or prejudice any bidder or potential bidder.

#### 34.4.4 Assessing contract risk

All procurement projects must be assessed prior to commencing activity to determine the level of risk associated with the particular procurement. The risk matrix is part of these Standing Orders at Article 35. Dependant on the total score achieved on the matrix together with the estimated contract value the Budget Holder will determine the process to be utilised.

#### 34.4.5 Terms and conditions

The Council's Standard Contract and Purchase Conditions have been developed with legal advice to protect the Council from contract risk in the majority of instances. When entering into any contract, be that following either the quotation or tender process, the Budget Holder must be aware of the terms of that contract. Under normal circumstances for goods and simple services the Council's Standard Contract and Purchase Conditions will suffice. However, consideration should be given to specifics, such as insurance requirements, health and safety and confidentiality, and other relevant issues where risk is increased. Additional terms, including 'social clauses', will be available for selection through the e-procurement system to apply to a procurement process where appropriate and Budget holders must seek legal advice if in any doubt.

In all cases contract terms shall include a requirement for contractors to be paid within 30 days of receipt of a valid invoice and also for contractors to pay their sub-contractors within 30 days and to pass that requirement through the supply chain.

In some limited circumstances the market operates in such a way as to prevent the Council from imposing its standard terms and it will be inevitable that the supplier's terms will be offered. Particularly in these cases legal opinion should be sought to highlight any specific clauses that put the Council at risk and these may be grounds for negotiation with the supplier prior to agreeing a contract. Where a supplier's terms and conditions are to be agreed this must first be approved by the appropriate Head of Service.



### 34.4.6 Pricing

In the case of long-term contracts (usually longer than one year) it may be necessary to include provision for inflationary and deflationary factors during the course of the contract. A clause should be drafted requiring the supplier to provide evidence of increased costs and any increase must be limited to the appropriate inflationary index. Due care must be taken when drafting this type of clause and when used must be approved by the appropriate Head of Service.

## 34.5 SECTION 5 – Supplier Engagement

### 34.5.1 Advertising a quotation or tender

The e-procurement system shall be used for all quotation and tender procedures and as such all opportunities will be published and made visible to all potential providers that are registered on the system. The e-procurement system will also facilitate the publishing of opportunities to the OJEU and to Contracts Finder where necessitated by the value of the contract. The transparency obligations of the Council require that all contracts over £25,000 are advertised on Contracts Finder in addition to any other systems that are used.

There may be circumstances however when it will also be necessary to place an advertisement in a local newspaper, trade journal, local partnership network, or social media where appropriate, to invite potential suppliers to register on the e-procurement system to obtain access to the opportunity. This will particularly be the case where it is deemed that insufficient suppliers are registered for a specific category of products or services to achieve a reasonable level of competition.

The advertisement shall be raised in conjunction with the Head of Service and will include the website address for the e-procurement system.

### 34.5.2 Information to potential suppliers

All potential suppliers must receive the same detailed information that accurately reflects the business and Budget Holder requirements. Information given to tenderers that relates to anticipated volumes or value of business is for guidance only. It must be clearly stated that the Council will not be bound by this information.

Tenderers must not be informed of the identity of competitors, as this can lead to supplier collusion and cartels and a potential loss of confidence among tenderers.

All questions and answers to clarification points that may be raised by tenderers are to be administered through the e-procurement system to ensure that all tenderers receive the same information. Care should be taken to ensure that further clarification information is made anonymous before sharing with other tenderers.

### 34.5.3 Meetings/discussions with tenderers

If it is part of the contract strategy to hold meetings with tenderers before tenders are submitted best practice is to hold one meeting with all suppliers present unless the Budget Holder and the Head of Service determines that it is disadvantageous to do so. This approach ensures that all tenderers receive the same information.

No meetings or discussions shall take place during the tendering process between tenderers and the Budget Holder without the prior agreement of the Head of Service.

## **34.6 SECTION 6 - Process**

### **34.6.1 Development of the specification**

The Budget Holder, with the aid of specialist functions as appropriate, is responsible for compiling the specification which must include performance criteria. Budget Holders must use caution when communicating with potential suppliers during this stage of the process, to avoid compromising the Council's ability to maintain transparency, equal treatment and impartiality.

It is the responsibility of the Budget Holder to source and contract with suppliers who will supply goods and services that will meet the Budget Holder's specification as well as the commercial requirements of the contract.

To ensure best value, specifications should be generic and outcome-based and not limit offers of equivalent solutions.

### **34.6.2 Identification of Suppliers**

There are a number of ways in which potential suppliers may be selected:

#### **34.6.3 E-procurement system**

In the majority of circumstances suppliers will identify themselves by expressing an interest on the e-procurement system for a particular opportunity.

#### **34.6.4 Framework Agreements**

Suppliers are awarded business under framework agreements and the Budget Holder will not undertake any further supplier identification. In any case where a Framework Agreement in accordance with these standing orders is in place:

- i. Orders will be placed against a known price and do not require further competition unless required by law.
- ii. In circumstances where the price was not specified under the Framework Agreement an order can only be placed if further competition has been undertaken in accordance with the instructions contained within the Framework Agreement. This will be with all of the suppliers specified in the Agreement or within a specific Lot of the Agreement and no other suppliers. This competition will be undertaken utilising the e-procurementsystem.

The further competition must be evaluated using the criteria as stated in the Framework Arrangement. If the number of suppliers within a Framework Agreement or relevant Lot is not sufficient to ensure competition the Budget Holder must seek expert advice.

- i. When an existing Framework Agreement is to be used, particularly for services and works, it is the Budget Holder's responsibility to ensure that all specified requirements remain valid. It may be necessary to request current evidence of insurance or other certification depending on how the Framework Agreement is managed.

#### **34.6.5 Supplier databases**

Various Supplier/Contractor databases exist to assist organisations select suppliers these data bases are available on-line, e.g. Construction-line, Sells, Yellow Pages, Kelly's and professional bodies such as RICS. When using these lists care must be taken not to only use one source of information and identified suppliers must then be encouraged to register on the e-procurement system.

#### **d) Dynamic Purchasing Systems**

Where a Dynamic Purchasing System is in place quotations will be sought using the e-procurement system.

### **34.6.6 Supplier selection**

The Council is committed to obtaining value for money through the procurement of all goods, services, works and capital projects. It is essential to ensure that only the most capable suppliers are selected as contractors to the Council.

The selection and elimination of suppliers within a procurement exercise can only be made on grounds of capability and that assessment should include a balance of technical, professional and financial issues as appropriate. It is essential that any criteria used to select suppliers are notified to them in advance. This information should be contained within tender documents or where appropriate included within the OJEU notice.

Potential suppliers should be requested to provide accounts for the past two years of trading as part of the procurement process where appropriate. In the absence of audited statements, other information should be requested that is considered sufficient for assessment purposes. Potential suppliers such as SMEs and public service mutuals may have been recently formed and be unable to provide accounts for the previous two years or to provide any filed accounts at all. The Budget Holder should know the level of flexibility required towards potential suppliers from information gained through market research. Other information that may demonstrate the potential supplier's economic and financial standing can include, but is not limited to:

- Parent company accounts (if applicable)
- Deeds of guarantee
- Bankers statements and references
- Accountants' references
- Management accounts
- Financial projections, including cash flow forecasts
- Details and evidence of previous contracts, including contract values
- Capital availability.

The capacity of a potential supplier may be assessed based on a simple comparison of the annual contract value to the annual (or average annual) turnover. While turnover may be a useful indicator of capacity, issues of financial position, capacity, capability and dependency should all be considered as part of the appraisal process. If a potential supplier is not selected, there must be clear and demonstrable evidence of financial risks, capacity or capability issues over and above a simple turnover or ratio measure. Budget Holders should not impose arbitrary minimum requirements which may have the unintended effect of barring new businesses from bidding and that in the spirit of encouraging supplier growth, the supplier evaluation process should not rule out a potential supplier unless there is clear evidence that the supplier's financial position places the Council or services at unacceptable risk. This should include the consideration of the level of insurances required. Whilst the Standard Contract & Purchase Conditions include a requirement for £3million cover for public liability, Budget Holders should set the minimum requirements for public and employers liability together with professional indemnity cover at an appropriate value relative to the contract risk.

Where open advertisements are used to attract potential suppliers the selection process will form a qualifying stage of the tender exercise. Qualification can only be assessed on the grounds of financial soundness, capacity and professional and technical ability. There are 2 ways in which this process can be used and these follow the principles of the EU procedures.

- i) Either, the pre-qualification questionnaire is made available to all suppliers expressing an interest and only the suppliers that meet the required standard are then allowed access to the full tender documents.
- ii) Or, suppliers are issued with the full Invitation to Tender (ITT) document of which the qualification section forms the first element.

The first option should only be used for contracts valued above the EU threshold and where allowed within the procurement process, i.e. the Restricted procedure or Dynamic Purchasing System. The Restricted procedure should only be used where the market is known to be extensive and large numbers of tenderers are anticipated. This approach will remove the possibility of large numbers of suppliers completing a full tender unnecessarily. Conversely, where appropriate, the qualification section within a full tender will be used to ensure that minimum standards are met and will allow evaluation of a wider range of tender offers. This will reduce the overall timescale of the tender.

The purpose of pre-qualification is not to reduce the number of potential bidders but to ensure that those tenders that are evaluated are from suppliers that are capable of meeting the quality standards required. Where a pre-qualification questionnaire is used this must be based on the government standard and should be as simple as possible. Qualification may involve as little as a requirement of tenderers to confirm that they can meet the stated minimum standard required. The government standard pre-qualification questions are available on the e-procurement system to select, together with additional questions to be selected as appropriate to a specific requirement. To decrease the burden on tenderers, where certificates and evidence is required, this should only be requested before contract award from either the preferred bidder or from the final few tenderers where there are specific requirements.

#### 34.6.7 Low risk procedures (risk matrix score 0 - 59)

This procedure should be used by Budget Holders teams with delegated authority for expenditure below £5,000 and where the requirement is of low risk (i.e. scoring below 60). In all cases questions 1 to 5 of the Procurement Plan must be answered and retained.

These requirements are normally straightforward and require nothing more than the Council's Standard Contract & Purchase Conditions. The Budget Holder is required to seek 3 competitive quotes on the e-procurement system, which will maintain a record showing that good value has been obtained. The use of the e-procurement system should always be the first option and any alternative means of communication should only be considered in very rare circumstances.

The Purchase Order Number must be provided to the supplier at the time that the commitment is made. The Budget Holder must confirm Purchase Order details in writing within 24 hours of placing an order using a Purchase Order generated by the procurement system.

#### 34.6.8 Medium risk procedures (risk matrix score 60 – 100)

For all contracts scoring between 60 and 100 and typically with expenditure between £5001 and £50,000 a minimum of three quotations from potential suppliers is required using the Council's e-procurement system. Commitments must be confirmed immediately with a Purchase Order generated by the procurement system and must include all associated costs including delivery and VAT. If the contract has already been awarded the Purchase Order must be marked "CONFIRMATION ORDER" to avoid duplication.

The Budget Holder's specific requirements and the Standard Contract & Purchase Conditions will be used. It is also essential that the following is clearly stated:

- i) the lowest priced quotation may not be accepted.
- ii) the Council is under no obligation to accept any quotation.
- iii) offers not submitted on the e-procurement system will not be accepted.

After the closing date and time all received quotations will be available for evaluation.

The maximum duration of any contract should not exceed 3 years and automatic renewal or extension of contract is not permitted. Additionally, the Quotation must be referred to the Head of Service when any of the following apply regardless of the contract value:

- i) The contract period will extend beyond 12 months.
- ii) The contract will require special terms and conditions of contract.
- iii) The Standard Contract & Purchase Conditions may need to be modified and/or amended.
- iv) The supplier insists on using their own Terms and Conditions of Contract.

Where requirements are complex and potentially high risk the high level procedures should be followed and full tender documentation used instead of following the quotation process.

#### 34.6.9 High risk procedures (risk matrix score above 100)

For all requirements scored over 100 and below the EU threshold typically valued over £50,000 at least 3 competitive tenders must be sought. The Council's e-procurement system including the standard documentation will be used. The Standard Contract & Purchase Conditions will normally be applied, but further terms may be required to safeguard the Council from risk. The evaluation criteria and scoring methodology will be clearly set out on the system and it is also essential that the following is clearly stated:

- i) The lowest priced tender may not be accepted.
- ii) The Council is under no obligation to accept any tender.
- iii) All tenders must be submitted on the system and according to the instructions by the stated deadline.
- iv) The Tender will also state that offers not submitted on the e-procurement system will not be accepted.

The tender must be referred to the Section 151 Officer when any of the following apply:

- i) The contract period will extend beyond 36 months.
- ii) The contract will require special terms and conditions of contract.
- iii) The Standard Contract & Purchase Conditions may need to be modified and/or amended.

#### 34.6.10 EU Procedures

This procedure must be used for all requirements which are valued at or above 90% of the current EU Threshold. All contracts must be advertised through the e-procurement system in the Official Journal of the European Union (OJEU) and may also be advertised elsewhere as appropriate, but this must be following the OJEU notice publication. The notice published in OJEU will contain a link to the tender details and relevant documents.

There are five procurement routes that are available to use under the EU Directives and the choice of these procedures must be appropriate to the contract in question.

- a) Open – this procedure is preferred by the Council, as it has the shortest timescales and is arguably most transparent. Any company who accesses the tender following the published hyperlink will be allowed access to the Invitation to Tender (ITT).
- b) Restricted – this is a two-stage process where the full ITT is only provided to bidders that are successfully assessed in the Pre-Qualification Questionnaire and should only be used where the market is known to be considerable in size.
- c) Competitive with Negotiation –the Council must set minimum standards and these must not be changed through the negotiation rounds. The scope for using the Competitive procedure with Negotiation is limited by EU Regulations and must be justified; the most common circumstance being where the contract specification cannot be established with sufficient precision to permit the award of the contract by selection of the best tender according to the rules governing open or restricted procedures.
- d) Competitive Dialogue – this is a two-stage process. The first stage "the dialogue" allows for discussion between the invited bidders (no less than 3) and the Council. At the end of the dialogue phase bidders are invited to submit proposals which are then evaluated using the previously issued criteria.
- e) Dynamic Purchasing System (DPS) - this is a procedure that has some aspects that are similar to an electronic framework agreement, but where new suppliers can join at any time. It has its own specific set of requirements. It is to be run as a completely electronic process, and should be set up using the restricted procedure and some other conditions apply. The DPS is a two-stage process. First, in the initial setup stage, all suppliers who meet the selection criteria and are not excluded must be admitted to the DPS. Contracting authorities must not impose any limit on the number of suppliers that may join a DPS. Unlike framework agreements, suppliers can also apply to join the DPS at any point during its lifetime. Individual contracts are awarded during the second stage. In this stage, the authority invites all suppliers on the DPS (or the relevant category within the DPS) to bid for the specific contract.
- f) Light Touch Regime - The new regime (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, defined by Common Procurement Vocabulary (CPV) codes. There is a higher EU threshold for advertising these contracts, there are no stipulated time limits but the Treaty principles of transparency and equality must still be applied. There is also more flexibility on the award criteria that may be used.
- g) Innovation Partnership - This procedure is aimed at encouraging the development of innovative products, services or works, which are not already available on the market. The procurement process largely follows the competitive procedure with negotiation. Following a contract notice, the contracting authority receives expressions of interest and negotiates with the potential partner(s) it has selected. The partnership agreement is then awarded to one or more partners on the basis of the best price quality ratio. Following the

award, the structure of the process covers two parts, firstly the development of the innovative product, service or works and then the purchase of the resulting supplies, services or works.

Budget Holders will follow the appropriate procedures as detailed in the EU Procurement Directives and in the UK Public Contract Regulations. There are strict rules around contract value thresholds and mandatory timescales, including a standstill period between notification of a preferred contractor and the award of the contract. Budget Holders must ensure that all mandatory timescales are adhered to and should always seek expert advice and refer to the procurement guidance for further details.

#### 34.6.11 Receipt and opening of Tenders

All tenders will be managed in accordance to the defined procedures on the e-procurement system. If for any reason it becomes clear that insufficient time has been allowed for the preparation of tenders, the closing date may be extended. All tenderers must be advised of any change in the closing date, extension of time allowed, or of any other change in the tender arrangements.

#### 34.6.12 Tender evaluation

The Budget Holder with delegated authority is responsible for leading the commercial evaluation procedure within the tender assessment team. Tender evaluation will utilise the services of any other specialists deemed necessary. The evaluation process must be objectively followed using a team approach and by moderating scoring. All evaluation will either be carried out on the e-procurement system or if this is not suitable then an appropriate spreadsheet will be used and the records of the evaluation process must be uploaded onto the system and retained for audit purposes.

The purpose of the evaluation is to identify the most economically advantageous tender, which will be a balance of cost and quality. The Budget Holder must draw up the evaluation criteria and methodology early in the process and this will be shared with the tenderers as part of the e-procurement process. It is good practice to allot a weighting system to the scoring to enable greater emphasis to be attributed to the key outcomes required.

The evaluation criteria must be relevant and proportionate and linked to the subject matter of the contract. These criteria will often include the following:

Quality - Technical merit, aesthetic and functional characteristics, environmental characteristics, after sales service, technical assistance, delivery date and delivery period and period of completion.

Costs - Whole life cost - price, running costs, maintenance, consumables, spares and disposal costs.

A brief tender report (See Article 36 for a template) should be completed and submitted to the appropriate officer for approval to award.

#### 34.6.13 Acceptance of Tenders



The appropriate Budget Holder may accept from valid tenders received, in accordance with the decided award criterion:

- a) the most economically advantageous tender where one tender achieves an overall highest combined quality and cost score; or
- b) any other tender only after consultation with the appropriate Head of Service and after taking legal advice on the impact of EU Directives and subject to the appropriate Budget Holder making a written report; or
- c) in the case of sales or concessions the highest tender, if that was the award criterion, provided that the tender is not more than 10 per cent below the estimated value.

A Budget Holder may not reject an abnormally low tender without first giving the Tenderer the opportunity to explain the tendered price.

Acceptance of a tender must be in writing and may in some cases be in the form of an official purchase order and must be signed by the appropriate Head of Service or by an Officer designated by him/her. The "acceptance" must not prejudice any formal contract required by Standing Order 36.

The appropriate Budget Holder must inform all tenderers of the name of the successful tenderer and (where practical) the amount of the tender accepted and (without connecting particular prices to particular tenderers) the prices submitted by other tenderers.

Where the tender has followed the EU procedures and in other cases where appropriate the unsuccessful tenderers must be allowed 10 days following receipt of their rejection notification before the contract is awarded. This time is allowed for potential challenges to the award decision and to avoid cancelling an awarded contract. The successful tenderer should be notified in the meantime that they are the "preferred bidder".

#### 34.6.14 Debriefing unsuccessful tenderers

The Budget Holder must be prepared to explain to unsuccessful tenderers why their tenders were not accepted. Unsuccessful tenderers have a legal right to be debriefed, based on their tender, if they choose to make such a request. This is also good practice as it can help suppliers to improve and better compete for future business.

Debriefing of an unsuccessful tenderer should only be arranged once all unsuccessful tenderers have been informed. Debriefing in depth is likely to be needed only in respect of strategic or significant contracts. In doing so the Budget Holder must recognise and respect the confidentiality of information received from other tenderers.

#### 34.6.15 Errors or Discrepancies in Tenders

Where examination of tenders reveals errors or discrepancies which would affect the tender figures in an otherwise successful tender, the tenderer is to be given details of

such errors and discrepancies and afforded an opportunity of confirming or withdrawing the offer.

Where a tender is for a fixed sum and is for measured work calculated on Bills of Quantity with rates or Activity Schedules and the arithmetical calculations are erroneous the tenderer may confirm either the rate (or rates) or the total for that particular item or the tenderer may withdraw the offer. Where the Contractor has agreed to confirm their offer, any revision to the arithmetic total will require a compensating adjustment to provide a build-up of cost to agree with the tendered sum.

If the tenderer withdraws, the next tender in competitive order is to be examined and then dealt with in the same way.

Any exception to this procedure must be authorised by the appropriate Head of Service.

If a supplier discovers after receiving a contract that their tender had contained a genuine error, they must be asked to submit a detailed explanation of their case. If that demonstrates to the satisfaction of the Budget Holder that the error or omission was genuine, the revised details may be accepted subject to their approval within the relevant financial authority and the supplier's bid remaining competitive.

Otherwise, the supplier must be required to stand by their tender or the contract may in extreme circumstances be terminated. This course of action must be at the discretion of the Budget Holder, in discussion with their Head of Service. If in any doubt of the action to be taken refer to the Section 151 Officer.

#### 34.6.16 Error by the budget holder

If the Budget Holder finds an error in the requirement or specification of a tender, all potential suppliers must be informed of the correction and if necessary be given additional time to reply by extension of the tender return date.

If, following the issue of a Purchase Order, the Budget Holder finds a genuine error made in the process of placing the Purchase Order; the Budget Holder should advise the supplier and jointly discuss corrective action. The corrective action may be accepted subject to approval within the relevant financial authority.

In exceptional cases, cancellation of the contract may be necessary after discussion with the supplier and the Budget Holder.

#### 34.6.17 Clarification

**All supplier tender clarification should be controlled and led by the Budget Holder with delegated procurement authority. The Budget Holder should determine a strategy for the clarification, irrespective of whether it concerns a new purchase, a renewal, or a supplier generated change. The Budget Holder may decide to involve other specialists as appropriate.**

Neither good practice nor the EU Directives permit price negotiation, however clarification is utilised to explore and understand the technical aspects of a tender. The result of clarification discussions may be an adjustment to the cost proposal.

Where clarification discussions do not lead to an agreement between the supplier and the Council it may well be necessary to undertake a second procurement exercise and re-engage the market.

#### 34.6.18 Post-tender / pre-contract clarification

**All post tender clarification must be transparent and be carried out with all appropriate suppliers to remove possibility of preferential treatment of tenderers. No negotiations may take place under this Standing Order unless and in very rare circumstances the tender documents specifically reserve the right to do so.**

Post tender clarification is the process whereby discussion takes place with one or more selected tenderers after tenders have been assessed, in order to secure the value for money of the awarded contract or purchase order.

All discussions and concessions must be recorded and a record made on the e-procurement system and confirmed with the supplier. Under no circumstances should prices tendered by one tenderer be disclosed and / or used to “negotiate” other tenderer’s prices down. This is an unethical practice and could be damaging to suppliers and the Council.

##### b) Post contract clarification

Post contract clarification refers to any discussion which seeks to alter the contract conditions or which has any other direct implication for the delivery of goods or management of the contracted service, and which takes place after the award of contract.

Either party can initiate post contract discussions.

Post contract clarification must be conducted with the express authority of the Head of Service and should only be conducted with those personnel within the supplier’s organisation who are authorised to do so.

It is particularly important that no unauthorised personnel engage in any activity that could be interpreted by the supplier as negotiation. Unauthorised activity could compromise the Council’s legal position in the event of a subsequent related dispute.

Personnel should be wary of the dangers of unwittingly giving implicit agreement to a change in the contract. Any discussions or correspondence that could be perceived to be related to changes in service requirements should be prefaced by stating or noting that they are “without prejudice” to the contract.

Any changes that are agreed should be fully documented in accordance with the change procedures within the contract, and recorded as an addendum to the contract file.

### 34.6.19 Form of Contract

Purchase Contracts are normally utilised in addition to Purchase Orders for requirements over £100,000 in value. For specific requirements below £100,000 a contract may be appropriate where:

- Supply will extend beyond one year.
- Special conditions apply.
- The requirement is complex.
- There is significant risk associated with the purchase.

When a Purchase Contract is in place it must be used in preference to sourcing a requirement from another supplier.

All purchase contracts must:

- be in writing; and must specify the supplies, materials or services to be supplied, the price to be paid and must contain a statement as to the amount of any discount or other deductions, the period within which the contract is to be performed and such other conditions and terms as may have been agreed between the parties through the tender process; and
- include a clause prohibiting the contractor from transferring or assigning or sub-letting to any person any portion of the contract without the written permission of the Council signified by the appropriate Head of Service; and
- contain a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any resulting loss if the contractor or any person employed by him/her or acting on his/her behalf whether or not to his/her knowledge shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for taking or for not taking any action in relation to the contract or any other contract with the Council, or shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
- incorporate the standard Great Yarmouth Borough Council Standard Contract & Purchase Conditions, unless the parties agree to the contrary or it is considered inappropriate to do so by the Section 151 Officer following legal advice.

Every contract whose estimated value exceeds £100,000 must where possible provide for the payment of liquidated damages by the contractor where he/she fails to complete the contract within the time specified.

Purchase contracts may be under seal (particularly for contracts regarding construction, land or property), but must be attested to by a Director or signed by two officers of the Council designated a Director. Where two signatures are required at least one must be that of a person not involved in the tendering or clarification of the contract.

A copy of all contracts must be retained as an attachment on the e-procurement system.

Heads of Service must produce a list of those Officers whom they have authorised to sign contracts on their behalf and maintain that list.

#### 34.6.20 Purchase order

The standard Purchase Order is generated by the finance system and must be utilised for all individual requirements and to call off requirements from existing Contracts. There are very limited exceptions to this requirement and categories of expenditure where a Purchase Order is not required are listed in the Procurement Guide. The Purchase Order will be completed with all the appropriate details of the purchase and the Standard Contract & Purchase Conditions are referred to on the supplier's copy of the Purchase Order.

The use of supplier-prepared agreements is not acceptable, except in the circumstances outlined in paragraph 17, as the whole contract will be placed on the supplier's terms and conditions, which are unlikely to be favourable to the Council.

#### 34.6.21 Receipt of goods & services and payment

Payment cannot be made until all supporting documentation has been completed. It is essential that receipt acknowledgements and invoices are returned promptly to the appropriate finance area by the Budget Holder after receipt of the goods or services. Invoices should in the first instance be sent directly to the finance department.

Before an invoice is paid by the finance department the following checks need to be completed to certify the specific invoice is passed for payment by confirming the following:

- The VAT invoice is an original or certified copy
- The goods and or services were received
- That the prices and all costs were agreed and invoiced correctly
- Applicable credits and or discounts have been applied
- The arithmetic calculations are correct

The finance department will process invoices promptly for payment. The Council is targeted by central government to achieve all payments to suppliers within 30 days of receiving an invoice.

## 34.7 SECTION 7 – Contract Management

### 34.7.1 Variations

All requests to suppliers to amend any contract or requirement must be made in writing and must include authorisation at the same level as the original instruction or at a higher level if the level of expenditure exceeds the original authorisation levels.

When the Purchase Order has been issued, any changes in the requirement must be notified to the supplier in writing by an amendment to the Purchase Order and if relevant a Contract Variation. The changes must also be made to the purchase order on the procurement system.

### 34.7.2 Cancellation of purchase order/contract

All requests for cancellation must be made in writing to the contractor by the Budget Holder who initiated the contract. For complex contracts advice must be sought from the Section 151 Officer and legal advice sought as required. Formal cancellation of the purchase order must be made in writing, ensuring Accounts Payable/Finance are informed. The details of any discussions and clarification between the Budget Holder and the Supplier should be recorded with the reasons for cancellation and the outcomes of any discussion.

### 34.7.3 Termination due to supplier non performance

If the Supplier is not meeting their contractual obligations and discussions fail to resolve the matter, the Purchase Order/Contract may need to be terminated.

The Budget Holder should consider the consequences of the cancellation with regard to:

- The Budget Holder's needs.
- Project timing and cost.
- Overall relationship between the Council and the supplier.
- The Council's performance in the contract.
- Contractual implication from the supplier's point of view.
- Future and other outstanding business with that supplier.
- The possibility of negotiating damages or consequential losses in line with the provisions of the contract conditions.

### 34.7.4 Contract management

The score achieved in the assessment of contract risk will suggest the level of contract management required and the appropriate approach to take. Detailed guidance can be found on the procurement intranet. The three categories of risk level and the required actions are summarized below:

- **Low level** - ensuring compliance to the contract by managing the delivery of the contract using high level indicators e.g. cost, quality, delivery, service.

- **Medium level** - managing the performance of the contract and the supplier by expanding the high level indicators and holding a minimum of one performance review meeting per annum.
- **High level** - managing the performance of the contract and the supplier using Key Performance Indicators (KPIs) and / or Service Level Agreements.

It is also suggested that a programme of peer reviews of significant contracts is undertaken and that this is procurement led. These reviews will assess internal controls, compliance, cost and scope changes, performance management, delivery of social value and benchmarking if appropriate.

### 34.7.5 Exit strategy

As the contract progresses the budget holder will have responsibility for ensuring that both parties are working towards the planned exit of the contract, and for undertaking the procurement process for securing subsequent supply arrangements if required. For the majority of service contracts it will be important to have built into the contract the requirements from the contractor should a change of supplier be appropriate at contract expiry. This might include provision of staff information to facilitate TUPE or the transfer of Council data from an existing system provider to a new contractor. Part of the exit strategy should involve ensuring that a review of the contract and supplier's performance and an assessment of lessons-learned are undertaken to inform future contracts.

## 34.8 SECTION 8 - Decommissioning

### 34.8.1 Disposal of assets

Disposal and/or reallocation of assets needs to be managed with the same diligence as the acquisition process. The Council has a duty of care regarding the disposal of equipment where environmental issues are appropriate.

Where Procurement is involved in disposal, records must be retained for the disposal of assets in a similar way as for purchase decisions.

Any items of stock (other than land) deemed obsolete or surplus to requirements must, where the expected loss on disposal is no more than £5,000, be sold or disposed of only on the authorisation of the responsible Head of Service. Where the expected loss on disposal exceeds £5,000 the approval of the Section 151 Officer must be obtained.

Assets for disposal must be sold by public auction, except where better value for money is likely to be obtained by inviting quotations or tenders as determined by the Head of Service or Section 151 Officer. The method of disposing of surplus or obsolete stocks / stores or assets other than land must be determined as follows:

<b>Total value</b>	<b>Method / Number of tenders or quotes</b>
Up to £5,000	Public auction or minimum of two tenders / quotations, after authorisation by the Head of Service

£5,000.01 and above  
(Invitation to Tender)

Public auction or minimum of three written tenders, after authorisation by:

Less than £10k value – Head of Service -  
Property & Construction

Between £10k and 50k value – Chief Executive,  
Directors and Section 151 Officer

Over £50k value - Policy and Resources  
Committee

Before an item is disposed of, consideration should be given as to whether there is a use for the item elsewhere within the Council. All options must be explored and a record kept of the decisions made. It is the responsibility of each Head of Service to establish that legal title rests with the Council prior to the disposal of any item. Disposal of land will in all cases require advice and guidance from the Head of Service - Property & Construction, as set out in the Council's Financial Regulations.

## 34.9 SECTION 9 – Retention of Documents

### 34.9.1 Archive records

It is a legal requirement for commercial records to be retained for inspection by various Government organisations, including HMRC (VAT).

The retention period commences once the Tender, Purchase Order or Contract is closed; all “open” documents are retained indefinitely.

The records to be retained, the retention period and which section retains them are detailed below:

Document	Retained By	Retention Period
Tenders/Quotations	e-procurement system	7 Years
Purchase Orders	procurement system	7 Years
Contracts	Budget Holder	7 Years
Suppliers' Invoices	Finance Dept.	7 Years

The records should be kept in a format that facilitates accessibility for future use.



## **34.10 SECTION 10 - Exemptions**

### **34.10 EXEMPTION, WAIVER AND OPERATIONAL EMERGENCY**

34.10.1 Exemption from or waivers of any of these Contract Standing Orders shall only be permitted in exceptional circumstances subject to compliance with the law. Exemptions or waivers may not be made retrospectively. The Monitoring Officer must be notified of any exemptions and waivers requested.

#### **34.10.2 Operational emergency**

Subject to the law, the Head of Paid Service, the s151 Officer, or a Strategic Director, having consulted the Monitoring Officer (or her nominated deputy), may approve an exemption to any part of these Contract Standing Orders that is necessary because of an Operational Emergency creating immediate risk to persons or property within the Borough or causing serious disruption to Council services (including any emergency or disruption under the Civil Contingencies Act 2004). An Operational Emergency is a situation that is the result of an unforeseen event over which the Council has no control. This procedure must not be used when a requirement has become late due to lack of planning on the part of the Council.

Full documentation must be completed regardless of the urgency of the requirement and a full audit trail must be made throughout the procurement process. Where the value of the Contract is over £250,000 a report supporting the use of this power must be taken to Policy & Resources Committee at the first available opportunity.

#### **34.10.3 Exemption**

Exemptions apply in certain specific circumstances and/or to certain types of Contract. Exemption to these Contract Standing Orders is subject to the law and may only be applied provided the value does not exceed the Public Contracts Regulations 2015 financial thresholds. Exemptions apply in the following circumstances:

- a) for supplies or services available only as proprietary or patented articles or which are sold by one manufacturer only at a fixed price;
- b) when using framework agreements or collaborative procurements made by a body legally able to let public contracts, e.g. Crown Commercial Services, provided that the Council is clearly identified as able to use the framework and procedures under such frameworks comply with any legislation;
- c) where the purchase of supplies, services or works from a different organisation would result in incompatibility with existing goods, services or assets or would result in disproportionate technical difficulties or disproportionate financial disbenefit;
- d) when best value for money can be achieved by the purchase of used or pre-owned vehicles, plant, equipment or materials;
- e) the purchase of supplies or materials at an auction sale; or
- f) in exceptional circumstances; where the work to be done or the goods to be supplied constitute a valid extension to an existing contract and it is in the Council's best interest to negotiate with the existing contractor/supplier.

#### **34.10.4 Waiver**

In exceptional circumstances and subject to the law when there are justifiable technical, specialist or supply market reasons and insufficient suppliers are available from the market to enable competitive offers to be obtained, any requirement to seek more than one tender or quotation may be waived, subject to authorisation in advance by the s151 Officer and the Monitoring Officer (or their nominated deputies). The decision to waive any Contract Standing Order must take into account value for money, probity and fairness. A single tender must still be obtained and the procuring officer must consult the Council's procurement team to verify that no other option is available. Any waiver of these Contract Standing Orders may only be made provided the value does not exceed the Public Contracts Regulations 2015 financial thresholds.

#### **34.10.5 Exemption and Waiver Procedure**

Request for exemption or waiver must be submitted by the relevant Head of Service on the form provided at Article 37 of the Constitution and all associated documentation must be retained in accordance with the Council's Document Retention policy when an exemption or waiver is authorised.

### **34.10 SECTION 11 – Maintenance of Contract Standing Orders**

#### **34.10.1 Review of contract standing orders**

These Contract Standing Orders will be reviewed at least once per year by the Procurement Working Group to ensure that they stay at the forefront of good procurement practice.

## **ARTICLE 35 GLOSSARY OF TERMS**

35.0 The following terms are used throughout these Contract Standing Orders:

35.1 Budget Holder - the person, department or business unit that holds the financial budget, and has the authority to raise requests for goods and services.

35.2 Commitment - the act of confirming a contract with third party suppliers and should be made by a contract or purchase order.

35.3 Confirmation Order - an order which has been placed verbally, by facsimile transmission, or electronically communicated and subsequently confirmed by a formal purchase order marked "confirmation order".

35.4 Contract - a legal agreement between the Council and external suppliers for the supply of goods and services. For the purpose of these Standing Orders this does not include contracts of employment for staff.

35.5 Contractor - an organisation that contracts with the Council to supply goods, services and works.

35.6 Council - refers to the full Great Yarmouth Borough Council.

35.7 Framework Agreement – an arrangement that has been advertised and tendered either by the Council or another body under which the Council can award a contract with a third party, either as a direct award or utilising further competition within the agreement, depending on the terms of the arrangement.

35.8 OJEU – the Official Journal of the European Union.

35.9 Procurement - the creation of legally binding contracts between the Council and third party organisations for the supply of goods, services and works.

35.10 Procurement Code of Conduct - the behaviour and conduct that governs the correct and professional manner in which to conduct commercial business with third party suppliers as published by the Chartered Institute of Procurement & Supply.

35.11 Procurement Plan - the procurement plan is the record of the procurement strategy development for a particular purchase and provides a clear audit trail of the decision making process.

35.12 Proprietary Product - a product that has unique characteristics produced by one manufacturer. A proprietary product specification could exclude competitors from competing on equal terms. In consultancy the services of a named person or firm would be considered as a proprietary product.

35.13 Purchase Order - a serial numbered document created by the procurement

system, raised by the Buyer on a specific supplier for the supply of goods, services or works. This document is a formal legal agreement with specific conditions for the supply of goods and/or services.

- 35.14 Purchase Order Amendment - a document communicating a change to the specified requirement, price or terms and conditions of the original Purchase Order. Like the original Purchase Order, this document is a formal legal agreement with specific conditions for the supply of goods and/or services.
- 35.15 Quotation - a statement of price, delivery and specification against the specific enquiry provided by a specific supplier.
- 35.16 Services - include the provision of consultancy, legal, cleaning, maintenance, agency staff and similar non-tangible requirements.
- 35.17 Specification - a clear statement of requirement for goods and/or services, normally detailed as a generic specification to enable competition and the delivery of value for money.
- 35.18 Social Clauses – particular terms and conditions that may be included within a procurement process, and thereafter form part of a contract, that require a supplier to undertake specific actions to generate benefits to either particular groups of people or to the wider general public.
- 35.19 Supplier - an organisation that contracts with the Council to supply goods, services and works.
- 35.20 Tender - a formal offer from a supplier to supply specified goods, services or works at a stated cost or rate.
- 35.21 Tenderer - a supplier offering to buy or sell a product or service. This term applies prior to the formation of contract.
- 35.22 Terms and Conditions of Purchase/Contract - the specific conditions under which the Council will enter into a contract or purchase order with a supplier.
- 35.23 Value for money - a combination of criteria that include competitive price on a whole life basis, quality, reliability and timeliness. This is not necessarily the lowest priced offer.

## ARTICLE 36 PROCUREMENT AUTHORITY THRESHOLDS

36.1 The following table outlines the minimum selection procedure to be used where the procurement is within these Contract Standing Orders and a framework is not being used.

### Minimum Contracts Procedures for Works, Supplies or Services:

Estimated Total Value	Selection procedure	Selection Decision by	Transparency Code Obligations
Less than £10,000	Single Quotation in writing including evidence of Value for Money, such as research into typical prices or rates	Officer	Publish details of all Contracts of £5,000 + on the Council's contract register
Up to £25,000	Single Quotation in writing including evidence of Value for Money, such as research into typical prices or rates	Head of Service	Publish details of all Contracts on the Council's contract register
From £25,001 to £75,000	At least three Quotations in writing, invited and returned using the e-procurement system and the opportunity should be published on Contracts Finder.	Officer with procurement team	Publish details of all Contracts on the Council's contract register. Contract award notices must be published on Contracts Finder for Contracts with a value of £25,000 or more.
Above £75,000 but below the Public Contract Regulations 2015 financial threshold	Invitation to Tender issued to a minimum of three Tenderers or an open tender. The Council's e-procurement system should be used and the opportunity published nationally using Contracts Finder with or without any other advertisement.	Head of Service with procurement team	Publish details of all Contracts on the Council's contract register. Contract award notices must be published on Contracts Finder.

## ARTICLE 37 Exemption / Waiver Form

**For use when requesting that an exception be made to the requirements of Contract Standing Orders in relation to selection procedure**

Contract name / description (include supplier name):
Contract sum: £
Anticipated date of commencement of contract:
Anticipated date of completion of contract:
Contract supervisor:
Brief details of contract:
Justification for use of exemption or waivers (i.e. details of which paragraph(s) in Standing Order apply – refer to extract from CSO attached):
<b>Submitted by:</b>
<b>Officer</b> ..... <b>Date:</b> .....
<b>Approved:</b>
<b>Monitoring Officer (or nominated deputy)</b> ..... <b>Date:</b> .....
<b>Approved:</b>
<b>Section 151 Officer (or nominated deputy)</b> ..... <b>Date:</b> .....
<b>Contracts Register updated</b> (all exemptions must be included on the Contracts Register for publication):
<b>Officer</b> ..... <b>Date:</b> .....
<i>Please provide details to Finance Team for including on the contracts register</i> <a href="mailto:financetech@great-yarmouth.gov.uk">financetech@great-yarmouth.gov.uk</a>

## ARTICLE 38 - GRANT PROCEDURES

38.1 Although there may be specific requirements depending on where the monies have originated the basic principles below should be followed in the allocation of grant funding.

38.2.1 If there is potentially more than one group or organisation that can meet the priorities of the council for a particular need, then the opportunity for grant funding needs to be advertised appropriately. This may be through local media, partnership networks and even through social media such as twitter or facebook. Details should include what the funding is for and the priorities it is intended to address, who can apply for a grant, the amount of money available, timescales and how the fund will be administered.

383 Those interested in receiving grant funding and providing services must complete a simple grant application which should contain as a minimum:

- Project outline and aims
- Activity and timescales
- Those contributing to the project and what they bring
- Anticipated outcomes
- Funding required and a breakdown of how this will be used
- Beneficiaries
- Monitoring and evaluation methodology

384 An assessment will need to be made as to which application best fits the council's needs and priorities before any grant funding is awarded. This will usually be undertaken by a panel consisting of project board members (if relevant), or appropriate officers.

385 Once a decision has been made to award a grant this should be recorded and kept for audit purposes. An agreement should then be drawn up and signed by both the council and the organisation, setting out the basis on which the grant is provided and how it will be monitored.

386 During the funded period it is advisable to regularly liaise with the successful organisation to ensure that the project is running to plan and that the desired outcomes are being achieved. Any alterations to the initial project outlines must be carefully considered to ensure that the council's priorities are still being met, especially if further funding is required.

387 Either annually, if the grant is for more than 12 months, or at the end of the funding period the organisation must provide a financial statement detailing how the grant has been spent and an evaluation report quantifying the outcomes achieved. It will also be helpful to obtain a case study demonstrating the achievements of the project and including any unexpected benefits. Feedback on how the project has been implemented, including other partners that have been involved, any difficulties experienced and how they have been overcome will also be useful. This may include photographs and letters of support from beneficiaries.

## ARTICLE 39 PROCUREMENT PLAN TEMPLATE

<b>1. Brief Description of Procurement:</b>		
<b>Goods</b>	<b>Services</b>	<b>Works</b>
<b>2. Duration of Contract:</b>		
Rationale if exceeding 2 years:		
<b>Intended Contract Start Date:</b>		<b>Total Contract Value: £</b>
<b>3. Intended contract format:</b> (e.g. Single supplier, Collaboration, Further competition within an existing Framework Agreement, establishment of a new Framework Agreement, JVC, etc.)		
<b>Rationale for option selected:</b>		
If a Framework Agreement is being created will the requirement be divided into Lots? If so how?		
<b>4. Does the Council have an existing contract? Yes / No</b>		
<b>5. Is there a Framework Agreement available to use? Yes / No</b>		
If Yes, is it appropriate? If No, why not?		
<b>N.B. If 'Yes' use the framework as directed and do not answer any further questions</b> <b>If 'No' and the contract value is less than £5,000 please use the 'Quick Quote' facility and do not answer any further questions.</b> <b>Otherwise, continue to complete the Procurement Plan.</b>		
<b>Market conditions:</b>		
Are there sufficient suitable local suppliers available? Yes / No		
If Yes, roughly how many might reasonably be expected to tender? If No, how many regional / national suppliers would you expect to be interested?		
<b>Advertising:</b>		
How will the opportunity be advertised?		
Why has this approach been selected?		
<b>Procurement Route:</b>		
What procurement process will be used? e.g. single stage (open procedure), 2 stage (restricted procedure), negotiated procedure, competitive dialogue, dynamic		



purchasing system, light touch regime, other (please describe)

**Declarations of Interest:**

Have all officers and members that may reasonably be involved in the procurement undertaken to declare any potential conflicts of interest?

**Financial Capacity:**

Having assessed the risk to the Council what minimum financial standing is required?

What minimum level of insurance is required?

<b>Public Liability</b> £	<b>Employers Liability</b> £	<b>Professional Liability</b> £
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**Social Value:**

Is there any opportunity through the contract to improve the economic, social and environmental well-being of the area?

If so how, in structuring the procurement, might that improvement be secured?

**Evaluation:**

What will be the overall weighting for:

Price (whole life cost) %

Quality (including service delivery, sustainability, technical merit etc.) %

Where will any weighted sub-criteria be published? E.g. OJEU notice or advertisement, tender document, other.

**TUPE:**

If a service is required, are there staff involved that might have rights under TUPE?

**Contract management:**

What contract management requirements will be built into the tender? (e.g. Service Level Agreement)

Will an exit strategy be required and if so what will this include? (e.g. transfer of data or staff)

**Form of Contract:**

How will the contract be completed? (e.g. formal document, contract award letter, purchase order etc.)

## ARTICLE 40 CONTRACT RISK MATRIX

**Contract Title:**

**Budget Holder:**

**Date:**

**Contract description:**

**Assessment:**

		assessed score	scores
Proposed length of contract	over 10 years		10
	4 to 10 years		5
	under 4 years		0
Proposed procurement arrangement	PFI/PPP/strategic partnership/negotiated procedure		20
	standard tender/ construction		10
	existing framework agreement		5
Estimated whole-life cost	services or supplies/service elements		0
	£0 to £5k		10
	£5k to £50k		20
	£50k to £170k		30
	Over £4.3m		40
Impact of Contract	Critical to external mandatory service delivery		30
	Critical to internal operations		20
	Important to service delivery or internal operations		10
	Minimal impact		0
Staff subject to transfer/restructuring	>25		20
	1 to 25		10
	nil		0
Impact on organisation	major change to existing service		20
	new business process/innovative approach		10
	no significant impact		0
Political / Reputational Risk	major risk		30
	medium risk		20
	minimal risk		10
Health and Safety Risk	major risk		30
	medium risk		20
	minimal risk		10
	Not relevant		0
Opportunity to misuse/ fraud/ exploit	major risk		30
	medium risk		20
	minimal risk		10
		<b>TOTAL</b>	<b>0</b>

Scores	Definition
0 to 59	= Low
60 to 100	= Medium
Over 100	= High

# ARTICLE 41 TENDER REPORT TEMPLATE

## Great Yarmouth Borough Council

### TENDER REPORT

**Contract Title:**

**Contract Ref:**

**Date:**

#### BACKGROUND

- Reason for requirement
- Key decision points from the Procurement Plan
- Any adjustments to the Procurement Plan

#### INVITATION TO TENDER

- Number of expressions of interest
- Number of tenders received

#### EVALUATION CRITERIA

- Details of main quality criteria and any sub-criteria including weighting.
- Any minimum score requirements
- Price evaluation method and weighting.

#### TENDER EVALUATION

- If using a 2 stage process, number of tenders qualifying to stage 2
- Names and scores of final quality evaluation and scores for the pricing element.
- Total scores and ranking
- Brief description of top 3 ranked bids, including any divergence from the tender requirements.
- Comparison with budget

#### CONCLUSION & RECOMMENDATIONS

#### APPROVAL BY HEAD OF SERVICE

## **ARTICLE 42 - MEMBERS' AND OFFICERS' CODES OF CONDUCT**

### **421 Members' Code of Conduct**

#### **421.1 Introduction to the Code**

This Code of Conduct is a key part of the Authority's discharge of its statutory duty to promote and maintain high standards of conduct by its members and co-opted members. It is very much focused upon the principles of conduct in public life of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership and it is the intention of the Authority that the Code be used exclusively in that context and not for any other purpose. It sets an objective, non political and high standard whose purpose is to remind members of the Authority of the behaviour expected of them in public life and to set out clearly the key principles against which their conduct will be measured.

The Code also contains provisions for registration and declaration of interests the breach of which will now attract potential criminal sanctions.

The Council will establish a Standards Committee to hear breaches of the Code and decide on sanctions against members found to be in default. Working closely with the Council's Monitoring Officer and Independent Person the Standards Committee will oversee a straightforward and robust regime dealing only with substantial ethics and standards issues and filtering out the inconsequential, trivial and vexatious. The Code will deal in broad common sense principles and neither it nor the supporting arrangements are intended to be over-technical or over-procedural. To return to the wording of the statute the Code is the Authority's public statement on the promotion and maintenance of high standards of conduct in public life.

Every member and co-opted member of Great Yarmouth Borough Council must sign an undertaking to observe the Code in the terms set out below.

#### **421.2 The Code**

As a member or co-opted member of Great Yarmouth Borough Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the

public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

As a Member of Great Yarmouth Borough Council my conduct will in particular address the statutory principles of the Code by:

- Championing the needs of residents - the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of Great Yarmouth nor the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.

- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

#### **4213**      Registration and Disclosure of Disclosable Pecuniary Interests

- 4213.1      I will notify the Monitoring Officer within 28 days of taking office of any Disclosable Pecuniary Interests by completing the relevant Register form.
- 4213.2      If I subsequently become aware of any new Disclosable Pecuniary Interest I will provide details to the Monitoring Officer as soon as possible.
- 4213.3      If I am present at a Council or Committee meeting and I have a Disclosable Pecuniary Interest in any matter to be considered I will declare that I have a Disclosable Pecuniary Interest (and the reasons why) and leave the room while the matter is considered,

#### **4214**      Disclosure of personal interests

- 4214.1      I have a personal interest in any matter being considered at a Council or Committee meeting when it is not a Disclosable Pecuniary Interest but a decision on it is likely to affect

- 42.1.4.1.1 my well being or financial position
- 42.1.4.1.2 or that of my family or close friends
- 42.1.4.1.3 or that of a club or society in which I have a management role
- 42.1.4.1.4 or that of another public body of which I am a member to a greater extent than others in my ward.

42142 I will declare a personal interest (and the reasons for it) at the meeting in question but before the matter is discussed. Having declared a personal interest I can speak and vote on the matter.

42143 I acknowledge that if I am sitting on a Licensing or Development Control Committee I should not speak or vote on an application if I could be considered to have made up my mind in advance, or to be biased in any way.

## **42.2 OFFICERS' CODE OF CONDUCT**

For the purpose of this Procedure, the term 'Senior Manager' shall encompass the Chief Executive Officer, officers subject to the Conditions of Service for Chief Officers of Local Authorities and Heads of Service.

### **42.2.1 Introduction**

42211 The public is entitled to expect the highest standards of conduct from all Council employees. This Code outlines existing laws and regulations and provides guidance to assist the Council and its employees in their day-to-day work.

42212 The aim of this Code is to lay down guidelines for employees which will help maintain and improve standards and protect them from misunderstanding or criticism.

42213 The Code applies to all employees, although inevitably some of the issues covered will affect senior employees more than it will others. Those employees who are members of a professional body will be bound both by their professional codes of conduct and the Council's. If any employee experiences any conflict between the Council's and their profession's codes of conduct, they are to make their Senior Manager aware immediately.

42214 Activities carried out by Council employees acting as members of companies or voluntary organisations are subject to the minimum standards within this code.

42.2.1.5 A breach of the Code may give rise to disciplinary action. A breach which is so serious as to undermine public confidence in the Council (i.e. bring the Council into disrepute) could be held to be gross misconduct. Actions of gross misconduct will normally result in dismissal without notice or pay in lieu of notice.

#### 42.2.2 Standards

42.2.2.1 The public always demands the highest standards of conduct from the employees of Great Yarmouth Borough Council. The public's confidence in the integrity of the Council would be damaged if the actions of any employee allowed suspicion to arise that they would be influenced in any way by improper motives.

##### *Standards of personal behaviour.*

42.2.2.2 Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Although the Committee on Standards in Public Life established its seven principles primarily with elected members in mind, they apply equally to employees in the public service. All staff are therefore expected to conduct themselves in accordance with those principles, which are:

*Selflessness:* Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

*Integrity:* Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

*Objectivity:* In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

*Accountability:* Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

*Openness:* Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.



*Honesty:* Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

*Leadership:* Holders of public office should promote and support these principles by leadership and example.

42.2.2.3 Furthermore employees will treat all members of the local community, customers and other employees with fairness and equality.

42.2.2.4 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive, within the policies of the Council, to ensure value for money to the local community and to avoid legal challenge to the Council.

42.2.2.5 All employees must be clear about their contractual obligations to the Council and shall not take outside employment which conflicts with the Council's interests, or which is of such a nature as to raise concerns that the employee's work for the Council may be adversely affected.

All employees must accordingly obtain their Senior Manager's permission before accepting any outside employment. Where necessary, authority for permission may be required from Council rather than the Senior Manager. This information will be recorded on the employee's personal file. Detail of outside employment of senior managers will also be recorded on the Council's website.

42.2.2.6 Employees must take reasonable care for their health and safety and this duty extends to other people who may be affected by their actions or omissions (see the Council's Health & Safety Policy).

### *Alcohol and Drugs*

42.2.2.7 Our employees are our most valuable resource and their health and safety is of the utmost importance. Drug and alcohol misuse has the potential to damage the health and well-being of our employees and threaten the success of our organisation.

42.2.2.8 The aim of this section of the Code is to protect the health and safety of our employees and to help anyone who may be suffering from a drug or alcohol-related problem.

42.2.2.9 In addition to the Council's duties to its staff, all employees are personally responsible for their own health and safety and the safety of others who may be affected by their acts and omissions. Consumption of alcohol or drugs may affect an employee's ability to properly perform his or her job and may also act as a distraction to others and/or endanger their health and safety. In addition, smelling of alcohol at work may cause others to question the quality of work being done. Employees are required to advise their Line Manager if they are taking

any drugs whether prescribed or non-prescribed, which may affect their ability to work.

- 42.2.2.10 Where appropriate, the Council will provide support internally and/or through external agencies to employees who seek help for a drug or alcohol problem.
- 42.2.2.11 The use, possession, distribution, purchase, sale or being under the influence of any controlled drugs whilst at work or on Council property is prohibited and may be viewed as gross misconduct. Breach of this by an employee will be investigated and normally be dealt with under the Council's disciplinary procedure.
- 42.2.2.12 Consumption of alcohol during paid working hours is prohibited and may be viewed as gross misconduct. Breach of this by an employee will be investigated and dealt with under the Council's disciplinary procedure. Equally attending work whilst being under the influence of alcohol, or appearing to be under the influence (e.g. smelling of alcohol), may also lead to disciplinary action.

#### *Standards of services to the public*

- 42.2.2.13 Employees must always remember their responsibilities to the community and ensure courteous, knowledgeable, timely and impartial service delivery to all groups and individuals within that community.
- 42.2.2.14 Great Yarmouth Borough Council endeavours to deliver a high standard of services to the public. Employees are therefore expected, without fear of recrimination, to report any deficiency in the provision of services to the public.
- 42.2.2.15 In addition, the Council has a Whistleblowing Policy and an Anti Fraud and Corruption Policy and recognises its employees as an important element in its fight against fraud and corruption. Employees are therefore positively encouraged to raise any concerns that they may have. These may relate to the internal activities of the Council, or to its dealings with suppliers or customers.
- 42.2.2.16 These concerns will normally be made to an immediate Line Manager. If the circumstances are such as to make this inappropriate, employees should discuss such matters with their Senior Manager or in exceptional circumstances with an independent officer such the Chief Executive Officer, Monitoring Officer, or Deputy Monitoring Officer.

If employees feel unable to raise their concerns through any of the internal routes, then they may raise them through 'Public Concern at Work' (tel: 020-7404-6609), a registered charity whose services are free and strictly confidential.

#### **42.2.3 Disclosure of information**

- 42231 The law requires that certain types of information must be made available to Councillors, auditors, government departments and the public. This is largely governed by the Local Government (Access to Information) Act 1985. The Council itself however, might decide to make available other types of information.
- 42232 Employees must be aware of the restrictions imposed upon them by the Data Protection Act 2018 (see Data Protection Policy). Each employee has a duty of care for the security of personal data that they may use in the course of their job. Such data must not be disclosed to any unauthorised person, even inadvertently, and includes data on a display screen or hard copy.
- Management must therefore keep employees informed as to which information is open and which is not, and adequately trained in understanding the restrictions of the Data Protection Act. In cases of doubt, employees should withhold information and consult the Data Protection Officer.
- 42233 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor shall they pass it on to others who might use it in such a way. This is especially relevant to employees who are privy to confidential information on tenders or costs for either internal or external contractors.
- 42234 Any particular information received by an employee from a Councillor which is personal to that Councillor and is not the property of the Council must not be divulged by the employee without the prior approval of that Councillor, except where disclosure is required or sanctioned by the law. If an employee has concerns about the propriety of withholding any such information received, they can discuss the matter in confidence with the Monitoring Officer or Deputy Monitoring Officer.
- 42235 On occasions an elected member will make an enquiry about a specific item of Council business. Elected members are entitled to information which is necessary to enable them to carry out their duties as Councillors. Employees are expected to disclose such information, usually in writing and dependant upon its sensitivity, to send a copy of that information to the relevant committee chairman and shadow chairman (the latter only if the enquiry came from an opposition member). If employees have any doubts as to whether certain pieces of information should be disclosed they are to consult either their Line Manager, the Monitoring Officer, or Deputy Monitoring Officer.
- 42236 Only certain officers are authorised to respond to enquiries from the media (see Media and Publicity Protocols).

#### **42.2.4 Political neutrality**

- 42.2.4.1 Employees serve the Council as a whole. They must follow every lawful decision and policy of the Council and must not allow their personal or political opinions to interfere with their work. They must therefore serve and respect the rights of *all* Councillors equally, irrespective of the member's political affiliation.
- 42.2.4.2 Senior Managers may, on occasions, be requested to attend political group meetings to give information. Their conduct at such meetings must not compromise their political neutrality. An employee always has the right, without fear of recrimination, to decline to address a political group.
- 42.2.4.3 Some people will be in posts which restricts their political activity outside of their employment at the Council. All affected persons shall be mindful of the requirements of the Local Government and Housing Act 1989, Local Government Officers (Political Restriction) Regulations 1990 and Local Government (Politically Restricted Posts) (No 2) Regulations 1990.

#### **42.2.5 Relationships**

- 42.2.5.1 No special favour may be shown to friends, partners, relatives or to current or former employees. Employees must therefore disclose *all* relevant relationships to their Senior Manager, whether of a business or private nature, which might have the potential to bring about a conflict with the Council's interests. Such relationships will include those with lessees, benefit claimants and grant applicants for example. If employees have doubts over the relevance of a particular relationship, they are advised to disclose it anyway.
- 42.2.5.2 Employees must declare to the Chief Executive Officer and Monitoring Officer membership of any organisation which is: not open to the public without formal membership, has a commitment of allegiance and which has secrecy about its rules, membership or conduct.

##### *Relationships with Councillors*

- 42.2.5.3 Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can prove embarrassing to other employees and Councillors and should be avoided. In general, employees and Councillors should always consider the way others may view the potential conflicts arising from social connections, especially concerning confidentiality and bias.

Councillors should always be addressed respectfully.

##### *Relationships with contractors*

4225.4 Orders and contracts must be awarded on merit, by fair competition in accordance with Council Standing Orders. Employees must disclose all relationships with current or potential contractors.

Employees involved in the tendering process and dealing with contractor must be clearly aware of the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

4225.5 If there is the slightest possibility of a conflict between an employee's duties to the Council and their relationship with the contractor, lessee, or benefit claimant etc., then the Senior Manager must report that relationship to the Executive Leadership Team. In cases where the employee concerned is a Senior Manager, then the Chief Executive Officer or Monitoring Officer must be informed.

#### *Relationships with potential employees*

4225.6 Employees involved in appointments must ensure that these are made on the basis of merit (see section 7, Local Government & Housing Act, 1989). It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. Employees making appointments must be aware of equal opportunities legislation.

4225.7 In order to avoid any possible accusation of bias, employees must not be involved in any appointment where they are related to an applicant, or be familiar with him or her outside work, neither must they be involved in decisions relating to discipline, promotion or pay adjustments for any other employee to whom they are related.

#### **42.2.6 Gifts, hospitality and sponsorship**

4226.1 S117(2) of the Local Government act 1972 states that an employee shall not accept any fee or reward whatsoever other than their proper remuneration.

4226.2 Employees must be aware that corruption is a serious criminal offence. The law states that if an allegation is made it is for the employee to demonstrate that any such gifts have *not* been corruptly obtained. Corruption is defined as 'the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person' (from 'Protecting the Public Purse'- Audit Commission - 1993).

#### *Gifts*

4226.3 Employees must not accept personal gifts or special discounts for themselves or their families from contractors, customers or outside suppliers, except where the items are of token value or refusal would

cause offence. Such gifts may be kept for personal or business use. The table below indicates the way in which gifts should be dealt with:

Chocolates or other food items under £25	Retained by recipient
Flowers	Retained by recipient
Alcoholic drinks	Noted in the Register of Gifts, Hospitality and Sponsorship, and passed to the Democratic Services Team*
Items over £25 not detailed above	Noted in the Register of Gifts, Hospitality and Sponsorship, and passed to the Democratic Services Team*
Items less than £25 not detailed above	Retained by recipient

\*If an item is received which is not covered by the table above, employees should discuss this with their line manager in the first instance, or with the Deputy Monitoring Officer if there is still uncertainty.

- 422.6.4 When a gift has to be refused, this should be done with tact and courtesy, because the offering of gifts is common practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to an employee's place of work, there may be a problem returning it, in which case it should be reported to the appropriate line manager or Deputy Monitoring Officer immediately.
- 422.6.5 Any items passed to the Democratic Services Team will be raffled on a regular basis, with proceeds passing to the Mayor's charity.

### *Hospitality*

- 422.6.6 Employees and their families must only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions must only be accepted when these are part of the life of the community, or where the Council should be seen to be represented. All such invitations must be reported to the Senior Manager who will sanction attendance and irrespective of whether the invitation is accepted or not, it must be recorded in the Register of Gifts, Hospitality and Sponsorship held in each department.
- 422.6.7 When attending authorised hospitality, employees shall give only relevant and factual answers and must be particularly sensitive as to the timing of the event in relation to decisions which the Council may be taking which could affect those providing the hospitality.
- 422.6.8 Where visits to inspect equipment etc are required, employees should ensure that the Council meets the cost of such visits to avoid

jeopardising the integrity of subsequent purchasing decisions. This rule should be applied unless there is a specific decision of the Council to the contrary.

- 422.6.9 When hospitality has to be declined, the person who made the offer should be courteously, but firmly informed of the procedures and standards operating within the Council.

### *Sponsorship*

- 422.6.10 Where an outside organisation wishes to sponsor a Council activity, the basic conventions concerning acceptance of gifts or hospitality apply. In the first instance the employee must inform their Senior Manager who will give guidance as to whether the Council will accept the offer. Particular care however, must be taken when dealing with contractors, potential contractors and tenants. Irrespective of whether the offer is accepted or not, it must be recorded in a Register of Gifts, Hospitality and Sponsorship.

- 422.6.11 Where the Council wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to their Senior Manager and the fact being noted in the Register of Gifts, Hospitality and Sponsorship.

Similarly, where the Council through sponsorship, grant aid, financial or other means gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

## ARTICLE 43 - MEMBERS' ALLOWANCES SCHEME

<b>SPECIAL RESPONSIBILITY ALLOWANCES</b>			£
Leader	1		10,663
Group Leaders – Labour	1		4,739
Mayor (Chairman of Council)	1		2,370
Deputy Mayor	1		948
 <b>Policy and Resources -</b>			
	Chairman	1	4,739
	Vice-Chairman	1	1,185
 <b>Economic Development Committee -</b>			
	Chairman	1	4,739
	Vice-Chairman	1	1,185
 <b>Environment Committee -</b>			
	Chairman	1	4,739
	Vice-Chairman	1	1,185
 <b>Housing and Neighbourhoods Committee -</b>			
	Chairman	1	4,739
	Vice-Chairman	1	1,185
 <b>Regulatory Committees</b>			
<b>Development Control -</b>			
	Chairman	1	4,739
	Vice-Chairman	1	1,185
<b>Licensing -</b>			
	Chairman	1	4,739
	Vice-Chairman	1	1,185
<b>Appeals -</b>			
	Chairman	1	1,185
<b>Standards -</b>			
	Chairman	1	1,185
<b>Audit and Risk -</b>			
	Chairman	1	4,739
	Vice-Chairman	1	1,185

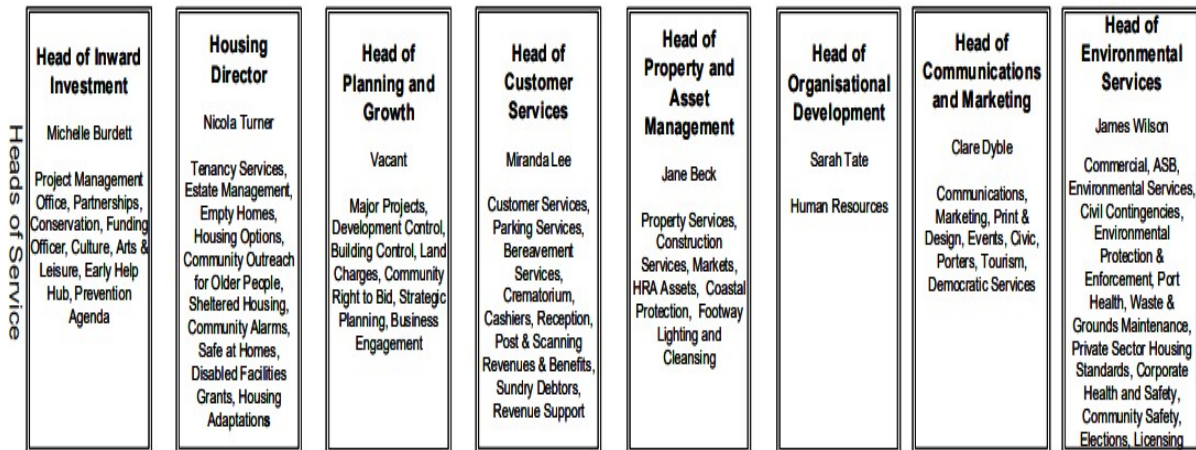
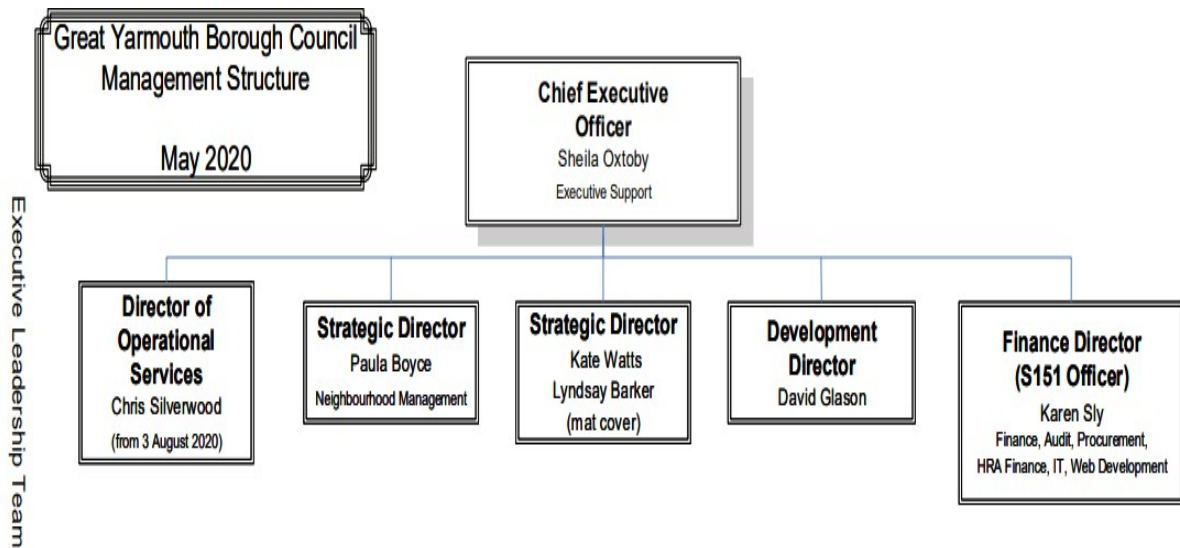


**Basic Allowance -**  
(All Members)

39

4,739

# ARTICLE 44 - MANAGEMENT STRUCTURE



## **ARTICLE 45 - OFFICER EMPLOYMENT PROCEDURE RULES**

### **45.1 Responsibility for the Discharge of Employment Functions**

45.1.1 The final decision on the appointment or dismissal of the Head of Paid Service/Chief Executive or on the appointment of any chief officer shall be by resolution of the Council on the recommendation of the Employment Committee.

45.1.2 The appointment, dismissal of and the taking of any disciplinary action against any chief officer shall, except where required to be by resolution of the Council under Rule 45.1.1 above, be conducted by the Employment Committee (or a subcommittee appointed for that purpose).

45.1.3 The functions of appointment and taking disciplinary action against any Officer of the Authority other than those listed in paragraph 45.1.4 below, shall be discharged on behalf of the Council by the Head of Paid Service or an Officer nominated by him/her.

45.1.4 Rule 45.1.3 above shall not apply to the appointment of or disciplinary action against:-

- (i) the Head of Paid Service/Chief Executive;
- (ii) a Statutory Chief Officer;
- (iii) a non-statutory Chief Officer.

### **45.2 Recruitment and Appointment**

#### **Declarations**

45.2.1 The Council requires any candidate for appointment as an Officer to state in writing whether they are the spouse, co-habitee, partner, parent or child, or other close family relative or friend of an existing Councillor or Officer of the Council; or the partner of such persons.

45.2.2 No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Director or an Officer nominated by him/her.

#### **Seeking support for appointment**

45.2.3 Subject to paragraph 45.2.5 below, 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.

45.2.4 Subject to paragraph 45.2.5 below, no Councillor will seek support for any person for any appointment with the Council.

45.2.5 Nothing in paragraphs 45.2.3 and 45.2.4 above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### **Conflicts of interest**

45.2.6 No Officer shall take part in the appointment or dismissal of, or take any disciplinary action against any Officer, where the officer or candidate is the spouse, co-habitee, partner, parent or child or other close family relative or friend of the Officer concerned.

45.2.7 Where an Officer would be in breach of the rule in paragraph 45.2.6 above, he/she shall notify the Head of the Paid Service who shall arrange for another Officer to take over that Officer's responsibility for the matter. Where the Officer with the conflict of interest is the Chief Executive, he/she shall inform the Monitoring Officer, who shall make such arrangements as are necessary to avoid such conflict.

45.2.8 A candidate who fails to comply with the provisions in paragraphs 45.2.1 to 45.2.7 above shall be disqualified for the appointment and if appointed shall be liable to dismissal without notice.

### **45.3 Recruitment of Head of Paid Service and Chief Officers**

45.3.1 Where the Council proposes to appoint a Chief Officer 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 (a) above to be sent to any person on request

### **45.4 Appointment of Head of Paid Service**

**Note:** This process is subject to mandatory standing orders regulations.

45.4.1 The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Employment committee or sub-committee of the Council.

45.4.2 The Full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member

of the Council.

## **45.5 Appointment of Chief Officers**

This process is subject to mandatory standing orders regulations.

45.5.1 A committee or sub-committee of the Council will appoint Chief Officers.

45.5.2 An offer of employment as a Chief Officer shall only be made where no well-founded objection from any Member of the Council has been received.

## **45.6 Other appointments**

45.6.1 Officers below Chief Officer. The appointment of officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

45.6.2 Assistants to political groups. The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **45.7 Disciplinary action**

45.7.1 The Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended by the Employment Committee whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than two months.

45.7.2 Disciplinary action relating to the Chief Executive and the Statutory Officers, shall be undertaken in accordance with the Model Disciplinary Procedure as published by the Joint Negotiating Committee (JNC) for Local Authority Chief Executives.

45.7.3 No disciplinary action, other than suspension, shall be taken against any of these Statutory Officers except in accordance with a recommendation in a report of a designated independent person.

45.7.4 Disciplinary action relating to Chief Officers, other than the Chief Executive and the Statutory Officers, shall be undertaken in accordance with the Model Disciplinary Procedure as published by the Joint Negotiating Committee (JNC) for Local Authority Chief Officers.

45.7.5 Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary (e.g. as a witness) for any investigation or inquiry into alleged misconduct, through the Council's Disciplinary procedures, as adopted from time to time, allow a right of appeal to an independent senior officer of the Council in respect of disciplinary action.

## 45.8 Dismissal

45.8.1 In the following paragraphs-:

(a) “*local government elector*” means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts.

(b) “*the Panel*” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority.

(c) “*relevant meeting*” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer.

45.8.2 A Section 151 Officer, Head of the Authority's Paid Service or Monitoring Officer (each defined as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001) may not be dismissed by the authority unless the procedure set out in the following paragraphs is complied with.

45.8.3 The authority must invite relevant independent persons (meaning persons appointed under Section 28(7) of the Localism Act 2011) to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

45.8.4 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

45.8.5 The authority must appoint to the Panel at least two such relevant independent persons who have accepted an invitation issued in accordance with paragraph 45.8.3 in accordance with the following priority order—

(a) a relevant independent person who has been appointed by the authority and who is a local government elector;

(b) any other relevant independent person who has been appointed by the authority;

(c) a relevant independent person who has been appointed by another authority or authorities.

45.8.6 The authority must appoint any Panel at least 20 working days before the relevant meeting.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

45.8.7 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the Localism Act 2011.

45.8.8 Councillors will not be involved in the dismissal of any Officer below Chief Officer except where such involvement is necessary (e.g. as a witness) for any investigation or inquiry into alleged misconduct; the Council's disciplinary procedures allow a right of appeal to an independent senior officer of the Council in respect of dismissals.

Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the Localism Act 2011.

Councillors will not be involved in the dismissal of any Officer below Chief Officer except where such involvement is necessary (e.g. as a witness) for any investigation or inquiry into alleged misconduct; the Council's disciplinary procedures allow a right of appeal to an independent senior officer of the Council in respect of dismissals.

## **45.9 Other Policies**

45.9.1 Except as set out in these Employment Rules, or as required by law or under a contract of employment, all appointments shall be made and disciplinary action taken in accordance with the Council's Human Resources policies and procedures which may add to these Rules but not override them.

## **45.10 Definitions**

45.10.1 In these Rules "the Statutory Chief Officers" means the Officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the Local Government Act 1985, section 112 Local

Government Finance Act 1988 for the administration of the authority's financial affairs.

45.10.2 In these Rules "Non-Statutory Chief Officer" means, subject to the following provisions of this section—

- (a) a person for whom the head of the Authority's paid service is directly responsible;
- (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the Head of the Authority's paid service; and
- (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

### **45.10.3 Outside Commitments**

Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests.

Any employee of local grade 5 or below does not require prior permission to undertake other work, but must, within 4 weeks of taking up other work, disclose its nature and extent, in writing, to their Chief Officer. If graded local grade 6 or above you must obtain written permission from your Chief Officer prior to undertaking any private work or other employment.

Employees should make themselves aware of the ownership of intellectual property, or copyright, including inventions, creative writings and drawings. In general, if created by the employee during the course of employment, these belong to the Council.



## **ARTICLE 46 - PROTOCOL FOR MEMBER/OFFICER RELATIONS**

### **46.1 GENERAL**

46.1.1 The aim of the protocol is to guide Member/Officer relations in order to provide an open and honest working ethos which ensures the delivery of the Council's statutory and other proper functions in a transparent and accountable fashion.

46.1.2 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other issues.

46.1.3 This Protocol reflects good practice and is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.

### **46.2 THE PRINCIPLES UNDERLYING MEMBER/OFFICER RELATIONS**

- Both Councillors and Officers are servants of the public and are indispensable to one another.
- Councillors are responsible to the electorate and serve only as long as their term of office lasts.
- Officers are responsible to the Council and their job is to provide advice to Councillors and the Council and to undertake the Council's work as directed by the Council's Committees.
- Both Councillors and Officers are bound by their respective Codes of Conduct which seek to enhance and maintain the integrity of local government generally by ensuring that both groups adopt the highest standards of personal conduct.
- Mutual respect as well as high standards of courtesy are essential to effective relations, neither Officers nor Members should seek to take unfair advantage of their respective positions.
- Close personal familiarity between individual Councillors and Officers can damage the above relationship and prove embarrassing to other Councillors and Officers.

### **46.3 ROLES OF MEMBERS**

- To effectively represent the interests of their ward and of their individual constituents.
- To respond to enquiries and representation from all their constituents both fairly and impartially.
- To represent their communities and ensure that their communities' views are brought into the Council's decision making process.
  
- Collectively through the Council to:-
  - adopt and review the Constitution
  - adopt and review the authority's Code of Conduct
  - agree the Policy Framework and Budget
  - make decisions on matters which are not the responsibility of the Committee and which have not been delegated to committees or officers
  - make appointments to committees
  - make appointments to outside bodies
  - appoint the authority's Chief Executive
- To serve as Members on Committees and Working Groups.
- To always maintain the highest standards of conduct and ethics.
  
- Be available to represent the Council on other bodies including external organisations.

### **46.4 ROLES OF OFFICERS**

- Responsible for day to day managerial and operational decisions.
- Providing support to all Councillors in the undertaking of their various roles.
- Responsible for ensuring the delivery of the authority's policies and services within the Policy Framework and Budget set by Council.
- Maintaining the principle of political neutrality and service to the whole Council.
- Providing the internal audit service and liaison with external audit.
- Through the post of Chief Executive (Head of Paid Service):-

- providing overall corporate management and operational responsibility (including overall management responsibility for all staff)
  - providing professional advice to all parties in the decision making process
  - ensuring that a system of record keeping for all of the authority's decisions is maintained
  - representing the authority on partnership and external bodies
- Through the post of Monitoring Officer:-
    - maintaining and promoting high standards of conduct
    - providing advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues
    - ensuring that Committee decisions and the reasons and other relevant papers are made publically available
    - ensuring lawfulness and fairness of decision making
    - supporting the Standards Committee by conducting investigations into matters referred by official Standards Officers and receiving and acting upon reports by those officers and on decisions of case tribunals
    - maintaining and up-to-date version of the Council's Constitution and ensuring it is widely available for consultation
  - Through the Section 151 Officer:-
    - ensuring the lawfulness and financial prudence of decision making
    - administering the Council's financial affairs
    - providing financial advice to aid the corporate management of the Council
    - advising all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues and providing general support and advice to Councillors and Officers in their respective roles
    - Providing financial information to the media, members of the public and the community.

#### **46.5 RELATIONSHIP BETWEEN MAYOR AND OFFICERS**

- (a) The Mayor will act as the independent Chairman of Council.
- (b) He/she is precluded from membership of, Standards Committee, and Regulatory Committees.
- (c) He/she will be responsible for interpreting the Constitution and ensuring that its provisions are upheld.
- (d) To undertake that role he/she will need to maintain a close working relationship with the Officers to obtain necessary advice and guidance.
- (e) At all times, however, the Mayor should remain impartial and should not allow him/herself to be influenced by Officers to the extent that this could result in a breach of the Constitution.

## 46.6 OFFICER RELATIONSHIPS WITH PARTY GROUPS

- (a) Whilst the existence of party groups within local government is acknowledged, they do not form part of the system for which Council support is provided or financed.
- (b) Members therefore will not receive any support on purely party matters, such support being restricted to Council business only. In the event of Officers attending a group meeting to discuss an issue it is important that the business is divided in such a way to ensure that the Officer can leave once the item(s) of Council business have been discussed. Officers attending such meetings should also be advised in advance if the meeting will involve Members who would not be bound by this protocol or any other approved Code of Conduct.
- (c) Officers will respect party confidentiality but will be bound by their statutory obligations and so should not be placed in any position of potential conflict by party groups.
- (d) Support to party groups is only proper and legal if it applies to Council matters, any use for private or party benefit is unlawful.
- (e) Whilst party group meetings are part of the preliminaries to Council decision making they are not able to make decisions on behalf of the Council. Any conclusions reached at such meetings therefore are not Council decisions and Members must not instruct Officers to implement such a decision until that decision has been properly taken in accordance with Article 25 of the Constitution.
- (f) The provision of information and advice to a party group meeting on a matter of Council business cannot act as a substitute for that information and advice being provided to the relevant Council meeting when the matter is considered.
- (g) Any particular cases of difficulty or uncertainty in this area of Officer's advice to party groups should be raised with the Chief Executive who will discuss them with the party leaders.
- (h) The only basis on which the Council can legally provide support services (eg stationery, typing, printing, photocopying etc) to Members is to assist them in undertaking their role as Councillors. Such support services must therefore only be used on Council business, they must never be used in connection with party political or campaigning activity or for private purposes.

## **46.7 MEMBERS IN THEIR WARD ROLES AND OFFICERS**

- 46.7.1 Whenever a public meeting is organised by the Council to consider a local issue, all Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultation on a local issue, the Ward Members should be notified.
- 46.7.2 Ward Members will be kept informed of correspondence between the Council and local MP that concern their constituents. This will be done on a confidential basis. (This will be discussed with the local MP before being implemented).

## **46.8 MEMBERS' ACCESS TO INFORMATION, COUNCIL DOCUMENTS AND OFFICER ADVICE**

- 46.8.1 Members will need in the discharge of their duties to access information from Officers. This will usually be most efficiently achieved through the Chief Executive or a Director who are able to provide an overview or direct the Member to the most appropriate Officer. For individual cases, Members may approach Case Officers, but more junior staff are entitled to refer the Member to the Chief Executive, Director or Head of Service.
- 46.8.2 Members who wish to obtain information from Officers should request it as early as possible, recognising that Officers may require reasonable time to collate or research the information. Members will state any deadline for the provision of information. This also applies where a Member wishes to obtain information to supplement an Officer report after the agenda for a meeting has been issued.
- 46.8.3 Officers will make every reasonable effort to provide Members with accurate factual information and professional advice in a timely manner, unless this would exceed the Officer's authority or there are lawful reasons to prevent disclosure of the information.
- 46.8.4 Members have a statutory right to inspect any Council document, which contains material relating to any business, which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the Member is a Member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting but also to any relevant background papers. This right does not however apply to documents relating to items containing information which is exempt from publication. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations. Correspondence held by the Monitoring Officer in relation to his duties is similarly exempt, unless released by him in the interests of furthering any enquiry.

46.8.5 The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member to perform properly his/her duties as a Member of the Council. This principle is commonly referred to as the “need to know” principle, and will be determined in the first instance by the particular Director whose service holds the document in question. In the event of dispute, the question will first be referred to the Chief Executive for determination, then to the Monitoring Officer if the matter is still unresolved and finally to the Standards Committee in the event that the dispute is still unable to be resolved.

46.8.6 A Member who requests to inspect documents which contain personal information about third parties will normally be expected to justify their request in specific terms.

46.8.7 A Member of one party group will not have a “need to know”, and therefore does not have a right to inspect, any document which forms part of the internal workings of another party group and is in the possession of the Council or an individual Officer.

46.8.8 More detailed advice concerning Member’s rights to inspect Council documents may be obtained from the Monitoring Officer.

46.8.9 Any Council information is provided to a Member on the basis that it must only be used by the Member in connection with the proper performance of the Member’s duties as a Member of the Council. This forms part of the Council’s Data Protection requirements. This point is emphasised in paragraph 26 of the National Code of Local Government Conduct.

## **46.9 CORRESPONDENCE**

46.9.1 Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member. Where it is necessary in the opinion of the Officer, the Member will be informed.

46.9.2 Members are entitled to send out correspondence in their own names, but should check with Officers if they are concerned that they may be committing the Council to any form of action, or create obligations or give instructions on behalf of the Council. Officers will mention the involvement of a Member if that Member has raised the matter (eg as part of their casework) or has asked the Officer to write to a constituent.

## **46.10 EXTERNAL COMMUNICATIONS**

- 46.10.1 The Council must follow the provisions contained within its adopted Media and Publicity Protocols in respect of press releases, media enquiries and other external communications.
- 46.10.2 In relation to social media, Council Officers must have regard for the Council's adopted Social Networking Policy for Employees. Councillors are referred to the Council's Social Networking Policy for Members.

## **ARTICLE 47 - CODE OF CORPORATE GOVERNANCE**

- Core Principle 1** *Focussing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area*
- Core Principle 2** *Members and officers working together to achieve a common purpose with clearly defined functions and roles*
- Core Principle 3** *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour*
- Core Principle 4** *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk*
- Core Principle 5** *Developing the capacity and capability of members and officers to be effective*
- Core Principle 6** *Engaging with local people and other stakeholders to ensure robust public accountability*



## 47.1 INTRODUCTION

***“Governance is about how local government bodies ensure that they are doing the right things, in the right way for the right people, in a timely, inclusive, open, honest and accountable manner.***

***It comprises the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities”***

### **Delivering Good Governance in Local Authorities (CIPFA/SOLACE 2007)**

**The CIPFA/SOLACE guidance “Delivering Good Governance in Local Authorities” identified six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain adopt a local code of governance. These principles are;**

- *Focussing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area*
- *Members and officers working together to achieve a common purpose with clearly defined functions and roles*
- *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour*
- *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk*
- *Developing the capacity and capability of members and officers to be effective*
- *Engaging with local people and other stakeholders to ensure robust public accountability*

**The Code of Governance has been prepared in accordance with the Guidance and will be reviewed by the Audit and Risk Committee on an annual basis.**

**Additionally authorities are required to prepare and publish an annual governance statement in accordance with this framework under Regulation 4(2) of the Accounts and Audit (Amendment) (England) Regulations 2006.**

**The Annual Governance Statement is a key corporate document. The Chief Executive Officer and the Leader of the Council have joint responsibility as signatories for its accuracy and completeness.**

## 47.2 GREAT YARMOUTH BOROUGH COUNCIL: CODE OF CORPORATE GOVERNANCE

### Core Principle 1 - Focussing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area

**Our aims in relation to focussing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area are to;**

- Exercise strategic leadership by developing and clearly communicating the authority's purpose, vision and its intended outcome for citizens and service users
- Ensure users receive a high quality service whether directly, or in partnership, or by commissioning
- Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money

In order to achieve our aims we will:	Source documents	Further work on-going
47.2.1.1 Develop and promote the Council's purpose and vision	'The Plan' - Corporate Plan Medium Term Financial Strategy Council's Website	
47.2.1.2 Review on a regular basis the Council's vision for the local area and its impact on the authority's governance arrangements	'The Plan' - Corporate Plan Medium Term Financial Strategy Code of Corporate Governance Annual Governance Statement	
47.2.1.3 Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties	Constitution Each partnership will design its own terms of reference/legal framework/constitution as appropriate. It would be the responsibility of the GYBC officer attending to ensure that it fits in with the Council's current corporate priorities/plans.	
47.2.1.4 Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance	Annual Financial Report Annual Performance Report Council's Website	
47.2.1.5 Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available	Performance Management Framework Residents' Surveys	
47.2.1.6 Put in place effective arrangements to identify and deal with failure in service delivery	Quarterly Projects and Measures Performance Report Performance Management Framework Complaints Procedure Monthly Financial Reports On line feedback	
47.2.1.7 Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions	Procurement Strategy Adopted Chartered Institute of Procurement & Supply (CIPS) Code of Ethics Report template (sustainability taken into account for Member decisions) Benchmarking reports	

**Core Principle 2 - Members and officers working together to achieve a common purpose with clearly defined functions and roles**

**Our aims in relation to Members and officers working together to achieve a common purpose with clearly defined functions and roles are to;**

- Ensure effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function
- Ensure that a constructive working relationship exists between authority members and officers and the responsibilities of members and officers and carried out to a high standard
- Ensure relationships between the authority, its partners and the public are clear so that each knows what to expect of the other

<b>In order to achieve our aims we will:</b>	<b>Source documents</b>	<b>Further work on-going</b>
47.2.2.1 Set out a clear statement of the respective roles and responsibilities members individually and the authority's approach towards putting this into practice	Constitution Record of decisions and supporting materials Member/Officer Protocol Member training	
47.2.2.2 Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers	Constitution (Statutory Officer positions, Terms of Reference for Committees, Member roles) Scheme of delegation Conditions of employment Member/Officer Protocol Conditions of Employment Job Descriptions	
47.2.2.3 Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for collective decision of the authority taking account of relevant legislation and ensure that it is monitored and updated when required	Constitution (Scheme of delegation) Statutory provisions Member / Officer Code of Conduct MT Forward Plan	
47.2.2.4 Make a chief executive or equivalent responsible and accountable to the authority for all aspects of operational management	Chief Executive Officer designated Head of Paid Service Constitution (Head of Paid Service responsibilities) Conditions of employment Member / Officer Code of Conduct Scheme of delegation Statutory provisions Job descriptions / specification Performance management system Signs Annual Governance Statement	
47.2.2.5 Develop protocols to ensure that the leader and chief executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained	Constitution Member/Officer Protocol	
47.2.2.6 Make a senior officer (usually the section 151 officer) responsible to the authority for ensuring that appropriate advice is given on all	Section 151 Officer has been nominated as the Council's Chief Financial Officer. Constitution (Statutory Officers)	

In order to achieve our aims we will:	Source documents	Further work on-going
financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control	Job description / specification Report template ensures consultation is undertaken with CFO before report considered by Members	
47.2.2.7 Make a senior officer (other than the responsible financial officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations are complied with (usually the monitoring officer)	NPLaw Solicitor has been nominated as the Council's Monitoring officer Constitution (Statutory Officers) Report template ensures consultation is undertaken with MO before report considered by Members	
47.2.2.8 Develop protocols to ensure effective communication between members and officers in their respective roles	Member / Officer protocol Outside Bodies advice given to Members Member/Officer Codes of Conduct	
47.2.2.9 Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process including an effective remuneration panel (if applicable)	Pay and conditions policies and practices Terms of Reference and Report Job evaluation Pay Policy Statement	
47.2.2.10 Ensure that effective mechanisms exist to monitor service delivery	Quarterly Projects and Measures Performance Report Complaints & Compliments Procedure Annual Financial Statements Annual Governance Statement	
47.2.2.11 Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated	'The Plan' - Corporate Plan Medium Term Financial Strategy Annual Statement of Accounts Budget Monitoring Annual Report Quarterly Projects and Measures Performance Report Consultation Annual Governance Statement Council's Website	
47.2.2.12 When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority	Constitution (Standing Orders) Individual Partnership agreements Service Level Arrangements Advice given to members in relation to outside bodies – see role of Councillors in Constitution Procurement Strategy Adopted Chartered Institute of Procurement & Supply (CIPS) Code of Ethics Council's website	

In order to achieve our aims we will:	Source documents	Further work on-going
<p>47.2.2.13 When working in partnership:</p> <ul style="list-style-type: none"> <li>- ensure that there is clarity about the legal status of the partnership</li> <li>- ensure that representatives or organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions.</li> </ul>	<p>Constitution  Individual Partnership agreements if we are part of a partnership due to statutory responsibilities (ie responsible authorities etc) we would use the law to understand our commitment and responsibilities.)  Service Level Arrangements  Advice given to members in relation to outside bodies  Procurement Strategy  Adopted Chartered Institute of Procurement &amp; Supply (CIPS) Code of Ethics  Council's website</p>	

**Core Principle 3 - Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour**

**Our aims in relation to promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour are to;**

- Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance
- Ensuring that organisational values are put into practice and are effective

<b>In order to achieve our aims we will;</b>	<b>Source documents</b>	<b>Further work on-going</b>
47.2.3.1 Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect	Constitution (Standing Orders) 1:1's Standards Committee has an overall view of conduct issues established by their terms of reference Member / Officer Code of Conduct Member / Officer Protocol Whistleblowing Policy Anti Fraud, Corruption & Bribery Policy Freedom of Information Policy statement and publication scheme Officer Register of gifts and hospitality Member and Parish Councillors Register of Interests Anti Money Laundering Policy	
47.2.3.2 Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols	Members / Officers Code of Conduct Member / Officer Protocol Performance management system Complaints & Compliments procedures Anti Fraud, Corruption & Bribery Policy Whistleblowing Policy ICT Security Policy Anti Money Laundering Policy Officer Register of gifts and hospitality Member and Parish Councillors Register of Interests	
47.2.3.3 Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice	Standing orders Member/Officer Codes of conduct Financial regulations Anti Fraud, Corruption & Bribery Policy Whistleblowing Policy Members / Officers - Register of Interests Member / Officer – register of gifts & hospitality	

In order to achieve our aims we will;	Source documents	Further work on-going
	Officer induction and training (through 'Induction Check List' by Manager and E-Induction pack)	
47.2.3.4 Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations and communicate these with members, staff, the community and partners	Codes of conduct 'The Plan' - Corporate Plan	
47.2.3.5 Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice	Codes of conduct Contract Procedure Rules Anti Fraud, Corruption & Bribery Policy Whistleblowing Policy ICT Security Policy Anti Money Laundering Policy Internal Audit Reports	
47.2.3.6 Develop and maintain an effective standards committee	Agenda and minutes Terms of Reference Committee meets regularly Regular reporting to the authority	
47.2.3.7 Use the organisations shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority	Decision making practices 'The Plan' - Corporate Plan	
47.2.3.8 In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively	Each partnership comes up with its own vision/values/action plan/decision-making system.	

#### Core Principle 4 - Taking informed and transparent decisions

**Our aims in relation to taking informed and transparent decisions which are subject to effective scrutiny and managing risk are to;**

- Rigorous and transparent about how decisions are taken and listening and acting on the outcomes of constructive scrutiny
- Having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs
- Ensuring that an effective risk management system is in place
- Using their legal powers to the full benefit of the citizens and communities in their area

In order to achieve our aims we will	Source documents/Processes	Further work on-going
47.2.4.1 Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based	Record of decisions and supporting materials Report template Decision list published	
47.2.4.2 Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice	Members/ Officers Code of Conduct Member / Officers Register of Interests Declaration of Interests Code of Conduct Guidance to members/officers issued Standards Committee have responsibility for these issues	
47.2.4.3 Develop and maintain an effective audit committee ( or equivalent ) which is independent or make other appropriate arrangements for the discharge the functions of such a committee	Audit and Risk Committee Training Audit and Risk Committee Terms of reference Agenda and minutes Annual Governance Statement	
47.2.4.4 Put in place effective transparent and accessible arrangements for dealing with complaints	Complaints & Compliments procedure	
47.2.4.5 Ensure that those making decisions whether for the authority or partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications	Members' induction scheme Members Library Members Handbook Training Report templates Individual members to be allocated a dedicated officer from Member Services to provide support.	
47.2.4.6 Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision	Report template requires that consultation is undertaken with MO/ s151 before report considered by Members	



In order to achieve our aims we will	Source documents/Processes	Further work on-going
making and used appropriately	Record of decision making and supporting materials	
47.2.4.7 Ensure that risk management is embedded into the culture of the organisation , with members and managers at all levels recognising that risk management is part of their job	Risk Management Framework Corporate Risk Register Financial standards and regulations Service Planning Risk Management Training Risk Management is an Agenda Item on all Directorate meetings Group Plan Template created and in use by departments Auditors reports Report template Audit & Risk Committee Annual Governance Statement	
47.2.4.8 Ensure that arrangements are in place for whistle blowing to which staff and all those contracting with the authority have access	Whistle blowing policy Register of whistle blowing reports and actions taken Information for contractors Published on Internet	
47.2.4.9 Actively recognise the limits of lawful activity placed on them by, for example the ultra vires doctrine but also strive to utilise powers to the full benefit of their communities	Constitution Statutory provision Report templates / positive sign-off - increased consultation at pre report stage will enable issues to be fully explored before report is put to members	
47.2.4.10 Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law	Training Availability of professional legal advice Report templates / positive sign-off - increased consultation at pre report stage will enable issues to be fully explored before report is put to members	
47.2.4.11 Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice into their procedures and decision making processes	Standing Orders Report template Constitution Statutory provision	

**Core Principle 5 - Developing the capacity and capability of members and officers to be effective**

**Our aims in relation to developing the capacity and capability of members and officers to be effective are;**

- Making sure that members and officers have the skills, knowledge, experience and resources they need to perform well in their roles
- Developing the capability of people with governance responsibilities and evaluating their performance as an individual and as a group
- Encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal

47.2.5.1 Provide induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis	Training Induction programme My Learning Tools – to identify training needs and preferred training method	
47.2.5.2 Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the organisation	Training Induction programme Staff handbook My Learning Tools – to identify training needs and preferred training method 1:1's Group Plans S151 Officer protocol	
47.2.5.3 Assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively	Personal Development Plans Member Training My Learning Tools – to identify training needs and preferred training method	
47.2.5.4 Develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed	Personal Development Plans E-learning Package My Learning Tools – to identify training needs and preferred training method	
47.2.5.5 Ensure that effective arrangements are in place for reviewing the performance of the authority as a whole and of individual members and agreeing an action plan which might for example aim to address any training or development needs	Performance Management Framework	
47.2.5.6 Ensure that effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority	Equality Impact Assessments on services and policies Area Committees Neighbourhood Boards / Forums Tenants Forum Networking Parish meetings Annual report on progress against equality objectives for EMT	
47.2.5.7 Ensure that career structures are in place for members and officers to encourage participation and development	Succession planning	

**Core principle 6 - Engaging with local people and other stakeholders to ensure robust public accountability**

**Our aims in relation to engaging with local people and other stakeholders to ensure robust public accountability are to;**

- Exercise leadership through a robust scrutiny function which engages effectively with local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships
- Take an active and planned approach to dialogue with and accountability to the public ensure effective and appropriate service delivery whether directly, in partnership or by commissioning
- Make best use of human resources by taking an active and planned approach to meet responsibility to staff

<b>In order to achieve our aims we will</b>	<b>Source documents/Processes</b>	<b>Further work on-going</b>
47.2.6.1 Make clear to themselves, all staff and the community, to whom they are accountable and for what	Constitution Stakeholder / local connector identification Satisfaction Surveys Open Forums Ward / Group / Club visit Neighbourhood boards & Community panels	
47.2.6.2 Consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required	Statutory provisions	
47.2.6.3 Ensure that clear channels of communication are in place with all sections of the community and other stakeholders including monitoring arrangements to ensure that they operate effectively	Leaflets / Publications Technology – facebook Networking Press Release Stakeholder / local connector identification Ward / Group / Club identification and visit Face to face	
47.2.6.4 Hold meetings in public unless there are good reasons for confidentiality	Constitution Access to information rules	
47.2.6.5 Ensure arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different	Budget Consultation Meeting 'The Plan' - Corporate Plan	

In order to achieve our aims we will	Source documents/Processes	Further work on-going
priorities and establish explicit processes for dealing with these competing demands		
47.2.6.6 Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users including a feedback mechanism for those consultees to demonstrate what has changed as a result	Media and Publicity Protocols Budget Consultation meeting Social Networking Policy for employees Social Networking Policy for Members	
47.2.6.7 On an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period	Annual Performance Report Annual financial Report 'The Plan' - Corporate Plan	
47.2.6.8 Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so	Constitution Customer service standards Freedom of Information Act/Publication Scheme Member / Officer Code of Conduct Training undertaken Whistle blowing Policy Anti Fraud and Corruption Policy Data Protections Policy ICT Security Policy Anti Money and Laundering Policy	
47.2.6.9 Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making	Constitution Personal Development Plans HR Policies	

## **ARTICLE 48 - MEMBERS' JOB DESCRIPTIONS**

### **48.1 COUNCILLOR**

#### **48.1.1 Purposes**

- 48.1.1.1 To participate constructively in the good government of the area.
- 48.1.1.2 To contribute actively to the formation and scrutiny of the authority's priorities, policies, budget, strategies and service delivery.
- 48.1.1.3 As a community leader, to represent effectively the interests of the Ward for which the Councillor was elected and deal with constituent's enquiries and representations.
- 48.1.1.4 To champion the causes which are best related to the interests and sustainability of the community and campaign for improvement in the quality of life of the community in terms of diversity, safety, wellbeing, economy and environment.
- 48.1.1.5 To act as a champion of the Council for specific issues when required.
- 48.1.1.6 To represent the Council on outside bodies, such as a governing body or multi-agency group.
- 48.1.1.7 To assist, as they are able, the Mayor in the civic life of the Borough.

#### **48.1.2 Key Tasks (in order of priority)**

- 48.1.2.1 To fulfil the statutory and locally determined requirements of an elected Member of a local authority and the authority itself, including compliance with all relevant codes of conduct and participation in those decisions and activities reserved to the full Council (eg setting budget, overall priorities and strategy).
- 48.1.2.2 To participate effectively as a Member of any Committee, Working Group etc to which the Councillor is appointed.
- 48.1.2.3 To participate in the activities of an outside body to which the Councillor is appointed, providing two-way communication between organisations; and to develop and maintain a working knowledge of the authority's policies and practices in relation to that body and of the community's needs and aspirations in respect of that body's role and function.
- 48.1.2.4 To participate, as appointed, in the scrutiny of the services and policies of the authority and their effectiveness in meeting the strategic objectives of the authority and the needs of its residents.

- 48.1.2.5 To participate in consultative processes with the community and other organisations.
- 48.1.2.6 To act as a consultee on matters within their ward.
- 48.1.2.7 To develop and maintain a working knowledge of the authority's services, management arrangements, powers/duties and constraints and to develop good working relationships with relevant officers of the authority.
- 48.1.2.8 To participate fully in Councillor training and development programmes, especially those relating to statutory requirements.
- 48.1.2.9 To develop and maintain a working knowledge of the organisations, services, activities and other factors which impact upon the community's well being and identity .
- 48.1.2.10 To promote and explain the work of the Council in their communities, including liaison with Parish Councils.
- 48.1.2.11 To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the government of the area.
- 48.1.2.12 To participate in the activities of any political group of which the Councillor is a member.
- 48.1.2.13 To uphold the Council's Constitution and to abide by the Councillor's Code of Conduct.

## **48.2 MAYOR**

### **48.2.1 Overview**

48.2.1.1 The Mayor, and in his/her absence, the Deputy Mayor, has two main roles: a ceremonial role; and a procedural role.

### **48.2.2 Ceremonial Responsibilities**

48.2.2.1 To represent the whole Borough during his/her term of office.

48.2.2.2 To promote public involvement in the Council's activities.

48.2.2.3 As the first citizen of the Borough of Great Yarmouth, to perform an ambassadorial role both inside and outside the Borough and to attend such civic and ceremonial functions as the Council or (s) he determines appropriate.

48.2.2.4 To promote the Borough of Great Yarmouth in a positive manner.

48.2.2.5 To act as a link between the Council and various groups and organisations.

### **48.2.3 Procedural Responsibilities**

48.2.3.1 To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.

48.2.3.2 To uphold and promote the purposes of the Constitution, and to interpret rules of procedure at full Council meetings.

48.2.3.3 To ensure that the Council meeting is a forum for the debate of matters of concern to the local community.

48.2.3.4 To call meetings of the full Council in addition to ordinary meetings.

48.2.3.5 To receive recommendations from Committees.

48.2.3.6 To carry out the duties identified in the job description for Councillors.

## **48.3 LEADER OF THE COUNCIL**

### **48.3.1 Role and Function of the Leader**

48.3.1.1 To provide a focal point for political leadership and strategic direction for the Council.

48.3.1.2 To represent the interests of the Council in circumstances where that is necessary.

48.3.1.3 To ensure effective Corporate Governance.

Chief Executive Officer and Chief Officers, Leaders of other political groups on the Council, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament etc.

48.3.1.4 Promote high standards of corporate governance and ethical conduct throughout the Council including working with all political groups to seek to achieve, where possible, cross party co-operation.

48.3.1.5 Promote and maintain professional working relationships and mutual respect between all Members and officers.

48.3.1.6 Work across the Council, particularly with the Chairmen and Vice-Chairmen of its Committees and Sub-Committees, and to be responsible for the development and implementation of the Council's strategic vision for the future, policy framework, budgets and other strategies.

48.3.1.7 Act as Chairman of the Policy and Resources Committee, fulfil the role of Leader at full Council meetings and carry out as necessary the other functions specified in the Constitution.

48.3.1.8 To carry out the duties identified in the job description for Councillors.



## **48.4 COMMITTEE CHAIRMAN**

*(This Job Description **excludes** the Standards Committee,. Although aimed at the other formal Committees, it does also apply to working parties.)*

### **48.4.1 General Responsibilities**

48.4.1.1 The Chairman of a Committee is responsible for the effective management of the Committee's business. In addition to the specific duties below, this involves:-

- (a) ensuring the overall effectiveness of the Committee, including agenda planning;
- (b) maintaining a public image that the work of the Committee is effectively managed; and
- (c) ensuring that Committee Members are full involved in the deliberations of the Committee.

### **48.4.2 Specific duties include:**

48.4.2.1 To have a working knowledge of the Council's relevant policies and strategies and ensure he/she is sufficiently and effectively briefed on matters coming before the Committee.

48.4.2.2 To chair meetings of the Committee in accordance with the principles of decision-making in the Constitution, and with regard to any other statutory, constitutional or procedural requirements.

48.4.2.3 To present to the Council any reports of the Committee.

48.4.2.4 To act where appropriate, as an external spokesperson and representative of the Committee if required.

48.4.2.5 To monitor progress in respect of any work programmes or performance targets for the Committee, and report as necessary.

48.4.2.6 Where specified by the Constitution, to act as a consultee for any functions of the Committee which have been delegated to officers.

48.4.2.7 To liaise with the Chairman of other committees, as necessary, to ensure the proper coordination of Council business.

48.4.2.8 To ensure appropriate expert and specialist advice is made available to the Committee.

- 48.4.2.9 To consider requests for items to be considered in cases of special urgency.
- 48.4.2.10 To determine arrangements for special meetings of the Committee.
- 48.4.2.11 To ensure Committee Members benefit from appropriate training and development to deal effectively with the Committee's business.
- 48.4.2.12 To carry out the duties identified in the job description for Councillors.

## **48.5 GROUP LEADERS**

### **48.5.1 Overview**

48.5.1.1 The Council recognises the key leadership role played by the leaders of all groups on the Council, and the importance of their commitment to cross-party working.

48.5.1.2 In recognising this role, the Council will ensure that group leaders have access to appropriate support and advice from officers in accordance with the Protocol for Member/Officer Relations.

### **48.5.2 Specific duties include:**

48.5.2.1 To provide leadership to their party group.

48.5.2.2 To ensure their group contributes effectively, positively and constructively to the Council's activities.

48.5.2.3 To instil a sense of responsibility and accountability amongst members of their group.

48.5.2.4 To assist in ensuring appropriate standards and levels of attendance are maintained and, in this respect, to act as the first point of reference for their group.

48.5.2.5 To act as the principal political spokesman for their group.

48.5.2.6 To represent their group as required, including as a consultee if required.

48.5.2.7 To nominate members of their group to serve on committees, working parties, panels and outside bodies in accordance with the political balance rules.

48.5.2.8 To act as a consultee if consultation with group leaders is required on any matter.

48.5.2.9 To encourage a culture of learning and development among Members of the Council, including the active participation of their group in briefings, seminars and training events, and to liaise with the officers in respect of specific needs of members of their group.

48.5.2.10 To carry out the duties identified in the job description for Councillors.

## **ARTICLE 49 - PETITIONS SCHEME**

### **49.1 Petitions**

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within ten working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition, provided it is signed by at least 20 people.

Paper petitions can be sent to:-

**CORPORATE SERVICES MANAGER,  
Town Hall  
GREAT YARMOUTH  
NR30 2QF**

People can also create, sign and submit petitions on line.

Petitions can also be presented to a meeting of the Council. These meetings take place approximately six times a year. 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 the Corporate Services Manager on Tel: 01493 846596 at least ten working days before the meeting and they will talk you through the process. If your petition has received 900 signatures or more it will also be scheduled for a Council debate and if this is the case we will let you know whether this will happen at the same meeting or a later meeting of the Council.

### **49.2 What are the guidelines for submitting a petition?**

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.

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 signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not

follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

### **49.3 What will the Council do when it receives my petition?**

An acknowledgement will be sent to the petition organiser within ten working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a Senior Officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, 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, such as Council Tax banding and Non-Domestic Rates, other procedures apply. Further information on all these procedures and how you can express your views is available from the Corporate Services Manager on Tel: 01493 846596.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

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, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by e-mail. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other e-mails from us.

### **49.4 How will the Council respond to petitions?**

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
- Holding a public meeting
- Holding a consultation

- Holding a meeting with petitioners
- Calling a referendum
- 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.

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. You can find more information on the services for which the Council is responsible on the Council's website.

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. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

#### **49.5 Full Council Debates**

If a petition contains more than 900 signatures it will be debated by the full Council unless it is a petition asking for a Senior Council Officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given ten minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 20 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, or to commission further investigation into the matter for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

#### **49.6 Officer Evidence**

Your petition may ask for a Senior Council Officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a Senior Council Officer to explain progress on an issue, or to explain the advice to elected Members to enable them to make a particular decision.

If your petition contains at least 450 signatures, the relevant Senior Officer will give evidence at a public meeting of the Council's Relevant Committee. The senior staff that can be called to give evidence are the Chief Executive, Directors and Heads of Service. You should be aware that the Relevant Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer 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 Services Manager up to three working days before the meeting.

## **49.7 E-petitions**

The Council welcomes e-petitioners which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, postal address and e-mail address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months. E-petitions can be submitted from 15 December 2010.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and re-submit your petition if you wish. If you do not do this within ten working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to the Corporate Services Manager. In the same way as a paper petition, you will receive an acknowledgement within ten working days. If you would like to present your e-petition to a meeting of the Council, please contact the Corporate Services Manager within ten working days of receipt of the acknowledgement.

A petition acknowledgement and response will be e-mailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement and response will also be published on this website.

#### **49.8 How do I 'sign' an e-petition?**

When you sign an e-petition you will be asked to provide your name, your postcode and a valid e-mail address. When you have submitted this information you will be sent an e-mail to the e-mail address you have provided. This e-mail will include a link which you must click on in order to confirm the e-mail address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

#### **49.9 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 Council's Policy and Resources Committee review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The Committee will endeavour to 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 determine we have 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 for the matter to be considered at a meeting of the full Council or one of its committees

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