
Corporate Governance Panel

Report of the meetings held on 23rd and 30th March 2005

Matter for Decision

14. REVIEW OF COUNCIL CONSTITUTION

By reference to a report by the Head of Administration (a copy of which is reproduced as an Annex hereto) the Panel has undertaken the annual review of the Council's Constitution. The changes recommended by the Panel have arisen as a result of practical experience of the operation of the Constitution since its implementation in May 2002, subsequent reviews in May of each year and comments received from the Cabinet, Panels, individual Members and Officers.

With regard to training of Members of the Development Control Panel, the Members' Planning Code of Good Practice, which is incorporated in the Constitution, already indicates to Members that they should not participate in decision making at meetings dealing with planning matters unless they have attended suitable planning training provided by the Head of Planning Services. Moreover, the Code itself applies equally to all Members of the Council and not just those who sit on the Development Control Panel. Not only are there occasions when development control applications are determined by the Council where they are not in accordance with the development plan but Members may have an interest in applications that affect their constituencies.

The Panel also has discussed the frequency with which the Constitution is reviewed. Having undertaken a review each year since its introduction in 2000 and given that changes can be made at any time, Members are of the opinion that in future the Constitution should be reviewed comprehensively at biennial as opposed to annual intervals. Otherwise and having considered the issues raised in the report, the Panel

RECOMMEND

- (a) **that, in future, a review of the Constitution be undertaken biennially, without prejudice to any change that may be considered appropriate in the intervening period;**

(b) that the following amendments be made to the Constitution with effect from the date of the Annual Meeting of the Council on 18th May 2005:-

(i) that the following words be inserted after paragraph (i) of Section 4 of Article 12 –

“(j) Deputy Monitoring Officer – in the absence or at the direction of the Director of Central Services and Monitoring Officer, the Head of Legal and Estates shall act as Deputy Monitoring Officer”;

(ii) that the following words be added after paragraph (e) of Section 5 of Article 12 –

“(f) Deputy Chief Finance Officer – in the absence of the Director of Commerce and Technology and Chief Finance Officer, the Head of Financial Services shall act as Deputy Chief Finance Officer”;

(iii) that paragraph 12 of the Council Procedure Rules (Standing Orders) be deleted in its entirety and replaced the following text –

“12. ANNUAL STATE OF THE DISTRICT ADDRESS

12.1 Procedure

The Chairman will invite the Leader to address the Council at its autumn meeting on the State of the District.

12.2 Response

The Chairman will invite the Leader(s) of the Opposition to respond to the address.

12.3 Discussion

The ensuing discussion in which a Member may speak once and to which only paragraphs 11.4, 11.12 and 11.13 of the Rules of Debate will apply, will be chaired by the Chairman”;

(iv) that consideration of any changes to the Constitution with regard to the Overview and Scrutiny Procedure Rules be deferred pending the outcome of the Panel’s review of existing arrangements;

(c) that suggestions with regard to -

- ◆ the introduction for a facility to enable the Chairman of an Overview and Scrutiny Panel to invite individuals in the public gallery to speak at meetings;
- ◆ arrangements for the appointment of substitute Members;
- ◆ a public forum a full Council meetings;
- ◆ a change to the Employee's Code of Conduct in relation to sponsorship; and
- ◆ the exclusion of oral questions by Members at Council Meetings when the State of the District Address is dealt with annually.

- be not supported;

(d) that, an amended Code of Financial Management be adopted as set out in Appendix B to the Annex hereto;

(e) that an amended Code of Procurement be adopted as set out Appendix C to the Annex hereto; and

(f) that consideration of a proposed change to the Employee's Code of Conduct in relation to Officers' conduct be deferred.

15. RISK MANAGEMENT

Following the approval by Cabinet of a Risk Management Strategy in January 2004, the Comprehensive Performance Assessment report specifically mentioned the need for the Council to decide on the extent to which it is averse to risk which has been included in the CPA Improvement Plan. In reviewing this matter, the Panel has adopted a basis for assessing risk, risk level categories and associated action notes and the allocation of levels to a risk grid. This will enable Officers to review existing scores for each risk and amend them where necessary.

16. INTERNAL AUDIT SERVICE – INTERNAL AUDIT PLAN 2005/06

The Panel has been acquainted with details of the Internal Audit and Assurance Plan for 2005/06 which contains details of those audits to be undertaken by the Internal Audit Section in the coming year.

17. COMPLAINTS

The Panel has received a summary of internal complaints and of complaints determined by the Local Government Ombudsman in recent years.

18. CORPORATE GOVERNANCE AND IMPROVEMENT PLANNING

The Panel has been acquainted with details of a process designed to ensure that it addresses those matters within its remit which are contained in the Comprehensive Performance Assessment Improvement Plan. Members also have been informed of the areas on which the Council is likely to be measured during the next CPA assessment.

**19. HOUSING BENEFITS COMPLAINT –
AWARD OF COMPENSATION**

The Panel has been informed of the settlement of a complaint against the Council by a member of public with regard to the assessment of applications for housing benefit and the terms of a compensatory payment.

I C Bates
Chairman

**REVIEW OF COUNCIL CONSTITUTION
(Report of the Head of Administration)**

1. INTRODUCTION

- 1.1 The Local Government Act 2000 changed fundamentally the way in which the District Council – and indeed local authorities generally had conducted their business for generations. It transformed the traditional “Committee System of decision-making” throughout local government and replaced it with a limited choice of executive/scrutiny models, supported by a range of “non-executive” Panels. The District Council along with the majority of local authorities then chose to implement the Leader/Cabinet model.
- 1.2 The complexity of the new arrangements required local authorities to adopt written constitutions to regulate their systems of governance and proceedings etc. Since adopting its constitution three years ago, the Council has undertaken an annual review in the light of the experience of individual Councillors and Officers, together with the Cabinet and other Member fora.
- 1.3 The Corporate Governance Panel was established by the Council in July 2004 to deal principally with the non-executive issues of audit, governance and finance. The Panel's terms of reference include responsibility for “oversight of the Council's constitutional arrangements and advising the Council on any changes that may be desirable”. This report introduces the review commissioned during the current year.
- 1.4 Adopting the same approach as was undertaken in 2004, the Cabinet and all Panels have been offered the opportunity to comment collectively on those aspects of the Constitution which affect their terms of reference. Members were invited to submit comments individually and Chief Officers and Heads of Services similarly were requested to highlight issues which had arisen based on practical experience of the operation of the Constitution.
- 1.5 To identify the changes proposed, Members will need to refer to the Constitution circulated to them in May 2004. Alternatively a copy is available electronically on both the Council's web site and intranet. Members are requested to bring their copy with them to the meeting for reference.

2. GENERAL CHANGES

- 2.1 The Council may amend its Constitution at any time, subject to regard being paid to formal guidance issued by the Secretary of State. Any change will require reference to the Secretary of State only if the Council propose to change significantly the present form of executive and scrutiny arrangements.
- 2.2 The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols. With the Constitution having operated satisfactorily for almost three

years now, the requirement for significant change is unlikely to be necessary. However, the Constitution continues to evolve and requires regular adjustment to take account of updates in legislation and practice and for these reasons the text has been amended to reflect –

- ◆ new legislation;
- ◆ alterations to –
 - table 2 – appointments to outside organisations (to reflect the addition/variation of appointments);
 - table 4 – scheme of delegation (to incorporate subsequent amendments to the scheme).

3. ARTICLE 12 – OFFICERS (PAGE 33)

- 3.1 Article 12 describes some of the key aspects of the role of Officers and the relationships between Officers and Members under executive arrangements. The Monitoring Officer and Chief Finance Officer also have a role in advising where particular decisions are, or are likely to be contrary to the policy framework or are contrary to or not wholly in accordance with the statutory or budgetary framework of the Council.
- 3.2 An internal audit review of the responsibilities of the Monitoring Officer and Chief Finance Officer has identified a requirement to formally appoint those Heads of Service who can act as deputies for these Officers.
- 3.3 **It is therefore proposed that the following changes be made to Sections 4 and 5 of Article 12 relating to the functions of both Officers –**

4. FUNCTIONS OF THE MONITORING OFFICER

Add - (j) Deputy Monitoring Officer - in the absence or at the direction of the Director of Central Services and Monitoring Officer, the Head of Legal and Estates shall act as Deputy Monitoring Officer.

5. FUNCTIONS OF THE CHIEF FINANCE OFFICER

Add - (f) Deputy Chief Finance Officer - in the absence of the Director of Commerce and Technology and Chief Finance Officer, the Head of Financial Services shall act as Deputy Chief Finance Officer.

4. COUNCIL PROCEDURE RULES (STANDING ORDERS) (PAGES 157 – 173)

4.1 State of the District Debate

The Panel is currently reviewing the form of the state of the District debate and a report on the matter was included on the agenda for the Panel's meeting on 23rd March 2005. However, it has been suggested by the Executive Councillor for Resources, Welfare and IT

that, at the meeting of the Council when the Constitution requires the Annual State of the District Debate to be conducted, the standard item "Oral Questions from Members" should be excluded from the agenda.

The Panel is invited to consider this suggestion.

**5. OVERVIEW AND SCRUTINY PROCEDURE RULES
(PAGES 201 – 207)**

5.1 Creation of additional Overview and Scrutiny Panel(s) and review of the terms of reference of the Overview and Scrutiny Panels

The operation of the Overview and Scrutiny Panels has again prompted comments during the review, primarily from one of the Panels, its Chairman and from the Leader of the Opposition, Councillor Downes.

5.2 The Overview and Scrutiny Panels are responsible for setting their own programmes of business and also have an important role in relation to policy review and development. Although the Panels meet monthly, meetings often continue until after 10.00 pm. Studies commissioned by the Panels may involve presentations by Officers or external organisations and guest speakers are invited to attend meetings to widen the Panel's understanding of subject matters under review. In addition, there may be policy items to scrutinise together with the items placed regularly on the Panel agenda to monitor the forward plan, decision digest and best value reviews. The Overview and Scrutiny Panel (Service Delivery and Resources) has requested the establishment of at least four Panels (comprising a reduced number of Councillors) to assist with the workload which has developed and, should this proposal be acceptable, a corresponding review of the terms of reference of the existing and any new Panels.

5.3 The Panel is invited to consider the issue.

5.4 Attendance by Others

Paragraph 13 of the Overview and Scrutiny Procedure Rules provides for the Panels to invite individuals other than Councillors or Members to address them. Councillor Downes has again requested that this rule be extended to enable the Chairmen of a Panel to invite individuals in the public gallery to speak for up to two minutes where it is considered that the person might have a valuable contribution to make to the debate. These individuals would not have been formally invited to attend the meeting.

The Panel is invited to consider the issue.

6. SCHEME OF SUBSTITUTION

6.1 A proposal to appoint substitute members to committees, panels and advisory groups was supported by the Committee during the review of the Constitution in 2004 but not adopted when recommended to Council. Councillor Downes has raised the issue again. A copy of a

potential scheme that was submitted to Members during the review in 2004 is reproduced at Appendix A. Should it be decided not to adopt a scheme for the appointment of substitute members across all panels and groups, Councillor Downes has requested that consideration be given to the appointment of permanent and named substitutes to assist attendance at meetings of the Overview and Scrutiny Panels given the regularity of their meetings and the heavier workload which they entail. (NB: reviewing the question of substitution arrangements generally in 2004, the Cabinet commented that if recommended, substitute members should be named and nominated prior to the meeting, absences should continue to be recorded and a proportionate approach adopted).

The Panel is invited to consider the issue.

7. CODES OF FINANCIAL MANAGEMENT AND PROCUREMENT (PAGES 209 TO 234)

7.1 Changes to the Codes of Financial Management and of Procurement are proposed. Amended copies of both codes are attached at Appendices B and C. The changes to the Code of Procurement seek to ensure compliance with existing public procurement directives and new regulations and introduce best practice and greater control through an agreed framework for procurement activity. Proposed changes to the Code of Financial Management reflect -

- ◆ the creation of the Corporate Governance Panel and the resulting transfer of duties to the Panel;
- ◆ the transfer of responsibility for the approval of the treasury management strategy from the Cabinet to Council in line with current best practice;
- ◆ the allocation of responsibility for risk management within their services to Chief Officers and Heads of Service;
- ◆ the introduction of a protocol approved by the Cabinet for the review of fees and charges;
- ◆ proposed increases in financial limits;
- ◆ a delegation to Heads of Service to utilise Section 106 monies for specified purposes but in the event of a more general specification, a requirement for prior consultation with the relevant Executive Councillors;
- ◆ a new delegation to Chief Officers to approve, after consultation with Executive Councillors, the transfer of revenue funds to a capital budget;
- ◆ the removal of the requirement for project appraisals for MTP bids to be approved by the Cabinet;
- ◆ the addition of the requirement to comply with Government Guidance on local government investments; and
- ◆ an earlier date for the annual treasury management report to be submitted and clarification of the responsibility relating to the asset management plan.

The Panel is requested to recommend to Council the adoption of revised Codes of Financial Management and of Procurement.

8. EMPLOYEES' CODE OF CONDUCT (PAGES 275 – 282)

- 8.1 Section 15 of the Employees' Code of Conduct specifies the requirement to disclose to the Monitoring Officer, who shall keep a register for the purpose, any benefit which might derive from sponsorship given or received from the Council. It has been suggested that this section of the Code be incorporated within the section relating to hospitality and gifts and subsequently that the necessity for the Monitoring Officer to maintain a register relating to sponsorship be removed.
- 8.2 However, it is contended that a situation in which the Council might wish to sponsor an event or service by which an employee or his or her partner, spouse or relative might benefit is completely different to the rules concerning the acceptance of gifts and hospitality. Given also that compilation of a register for the purpose is far from onerous **it is suggested that the Code of Conduct in this respect remains unchanged.**
- 8.3 Last Autumn, the Office of the Deputy Prime Minister issued a consultation paper seeking views on their proposals for a Model Code of Conduct for Employees. The Employment Panel responded to the consultation paper on behalf of the Council. A Code of Conduct for employees had previously been adopted by the Council in September 2003. During discussion on the Model Code there was some suggestion that the Code currently did not specify the conduct expected of Officers when acting in their official capacity. The Chief Officers' Management Team have recommended that additional text be inserted into Section 1 of the Code relating to standards as follows:-

At the end of the second sentence of Paragraph 1 (1.1) it is proposed to insert –

“an Officer must not in his/her official capacity conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or the District Council into disrepute”.

It is proposed that the text of the Constitution be amended appropriately.

9. PUBLIC FORUM AT COUNCIL MEETINGS

- 9.1 Councillor Downes has again commented on ways to broaden the role of full Council meetings by way of the introduction of a time-limited session at the commencement of the Council in which members of the public could be invited to put questions to the Cabinet and Chairmen of Panels and Committees. He considers that this initiative would further promote efficient, effective and accountable decision-making and the active involvement of the public in Council meetings.
- 9.2 Some Councils locally have schemes that enable citizens to participate in Council meetings. Should Members consider this to be

an appropriate development a potential scheme for a public question time in Huntingdonshire could be produced.

- 9.3 (NB: In their consideration of this development previously, the Cabinet did not recognise the need nor did they support the proposals for a forum to enable members of the public to ask questions or speak at full Council meetings).

The Panel is requested to consider the issue.

10. OBSERVATIONS OF THE CABINET, PANELS AND COMMITTEES

- 10.1 The views of the Overview and Scrutiny Panels have been reflected elsewhere in this report and the requirement to update the Constitution to reflect the establishment of the Licensing Committee has been noted. The Development Control Panel has commented that in its opinion it is essential for Members to receive training on planning and probity issues in advance of their appointment to that Panel. However, as the question of Member development is being pursued in conjunction with a study by the Overview and Scrutiny (Planning and Finance) Panel, the Chairman of that Panel has undertaken to ensure that the issue is considered as part of that study.
- 10.2 The question of training for Members appointed to serve on both the Development Control Panel and Licensing Committees was endorsed by the Cabinet. While acknowledging and commending the value of training for Members in these and other subject areas, the requirements of the Local Government and Housing Act 1989 and associated Regulations to achieve a political balance on Panels etc, and to give effect to nominations on behalf of political groups cannot be fettered or conditioned by reference to training. Nevertheless, the Council has a very good record of training for Councillors individually and collectively, and clearly this will continue albeit that it cannot be imposed as a mandatory requirement.

11. RECOMMENDATION

- 11.1 The Panel is requested to consider the recommendations contained in the foregoing paragraphs and to recommend to full Council accordingly.

BACKGROUND PAPERS

HDC Constitution

Minutes of the meetings of the Cabinet, Overview and Scrutiny Panels, Licensing and Protection and Development Control Panels.

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PROPOSED PROCEDURE FOR APPOINTMENT OF SUBSTITUTE MEMBERS TO COMMITTEES, PANELS AND ADVISORY GROUPS

1. ALLOCATION OF SUBSTITUTES

The Council at its Annual Meeting shall appoint named substitute Members from each political group, equivalent to one-third of the representation to which the group is entitled to attend Committees, Panels and Advisory Groups of the Council in the absence of ordinary Members.

For the purposes of determining a group's entitlement to substitute members –

- ◆ in rounding fractional calculations, one-third shall be rounded down and two-thirds shall be rounded up, provided that
- ◆ each group which is represented on a Committee, Panel or Advisory Group shall be entitled to nominate a minimum of one substitute member.

A Member of the Council who is not aligned to a political group ("independent Member") shall be entitled to appoint one other named "independent Member" to take his/her place in the event of his/her absence at meetings of any Committee, Panel or Advisory Group to which s/he is appointed.

The Leader, Deputy Leader and any Member of the Cabinet shall not be appointed as a substitute Member to an Overview and Scrutiny Panel and neither shall a Member of an Overview and Scrutiny Panel be appointed as a substitute Member to the Cabinet. The Leader shall not be appointed as a substitute Member to the Standards Committee.

As the Constitution of the Development Control, Employment and Licensing and Protection Panels and Licensing Committee provides for the appointment of only one Member of the Cabinet with Portfolio responsibility at each Panel, Portfolio holders other than the one with appropriate responsibility for those non executive functions within the terms of reference of each Panel may be appointed as substitute Members to the Development Control, Employment and Licensing and Protection Panels/Licensing Committee but may only attend in the absence of the appropriate Portfolio holder.

2. POWERS AND DUTIES

Other than the Standards Committee which shall not be Chaired by a Member of the Cabinet, substitute Members, when substituting for an ordinary Member of the Committee, Panel or Advisory Group shall have the powers and duties of any ordinary Member of the Committee, Panel or Advisory Group but shall not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

A substitute Member shall be entitled to be elected Chairman or appointed Vice-Chairman of the meeting of the Committee, Panel or Advisory Group at which s/he is in attendance but s/he shall be so elected or appointed for the duration of that meeting only.

The named Members appointed as substitute Members to the Overview and Scrutiny Panels shall not be entitled to participate in the Call-In procedure.

3. PROCESS FOR ATTENDANCE

Substitute Members may attend meetings in that capacity only -

- (i) to take the place of an ordinary Member of the Committee, Panel or Advisory Group for which s/he is the designated substitute;
- (ii) after notifying the Head of Administration or the relevant Democratic Services Officer of the intended substitution by 10am on the day of the meeting; and
- (iii) in the event of the ordinary Member not being present at the start of the meeting.

Attendance at a meeting of the Committee, Panel or Advisory Group for the purposes of substitution shall be determined at the start of the meeting and substitution or further substitution shall not be permitted during the course of the meeting.

4. GENERAL

- (i) A Member tendering an apology for absence at a meeting shall have that absence recorded irrespective of a substitute Member attending in his/her place to enable an accurate record of attendance to be published at the ensuing Annual Council meeting.
- (ii) Substitute Members shall be eligible for travelling, subsistence and carer's allowances as if they were appointed Members of the Committee, Panel or Advisory Group.
- (iii) Substitute Members attending meetings of the Development Control Panel shall not be eligible to receive the Special Responsibility Allowance payable to ordinary Members of the Panel but shall be entitled to claim reimbursement for the travelling and subsistence costs incurred when undertaking site visits in connection with the meetings.
- (iv) Those appointed as named substitute Members shall be invited to undertake appropriate training necessary to enable full participation in the business of the Committee, Panel or Advisory Group to which they are appointed, eg the Development Control or Licensing and Protection Panels/Licensing Committee.
- (v) Named substitute Members shall receive agenda issued for all meetings of the relevant Committee, Panel or Advisory Group to which they are appointed to assist in continuity and knowledge of issues under consideration.

CODE OF FINANCIAL MANAGEMENT

1. FINANCIAL RESPONSIBILITIES

1.1 General

Before any proposal that materially affects the Council's financial position is made the body or person(s) responsible for making that decision shall consider a written report, approved by the Director of Commerce and Technology, detailing the financial implications.

1.2 The Council

Will determine the Council's Financial Strategy, including a Medium Term Financial Plan (MTP), decide the Prudential Indicators, approve the Annual Budget and set the level of Council Tax.

Will approve the Council's Treasury Management Strategy.

1.3 The Corporate Governance Panel

Will ensure that the financial management of the Council is adequate and effective.

Will ensure that the Council has a sound system of internal control including arrangements for the management of risk.

Will consider the Council's Code of Corporate Governance and approve the annual statement.

Will approve the terms of reference and strategy for internal audit and comment on the annual internal and external audit plans.

Will consider the external auditor's annual management letter.

Will approve the Council's Tax Base and Final Accounts.

1.4 The Cabinet

Will propose to the Council the Financial Strategy, Medium Term Financial Plan, Prudential Indicators and the Annual Budget after appropriate consultation, which will include the Overview and Scrutiny Panels.

Will set financial priorities, allocate and re-allocate resources, monitor and review financial performance and adopt a Treasury Management Policy.

1.5 Overview and Scrutiny Panels

Will contribute to the development of, and review the effectiveness of, the Council's Financial Strategy, Medium Term Financial Plan and Annual Budget.

1.6 Panels or Committees

Will ensure that all decisions within their remit are made within the resources allocated within relevant Service Financial Plans and are consistent with achieving the Council's objectives. If they wish to make proposals that will require additional resources these will need to be subject to the Cabinet or Council making these available.

1.7 Members and Employees

Will contribute to the general stewardship, integrity and confidence in the Council's financial affairs and comply with this Code and any systems, procedures, or policies relating to the financial management of the Council.

Specifically, they shall bring to the attention of the Director of Commerce and Technology any act or omission that is contrary to the provisions of this Code or the maintenance of high standards of financial probity, and provide information or explanation on matters within their responsibility to him/her, the Monitoring Officer, Internal Audit Service or the Council's external auditors.

Any Member or Officer who is involved or who has an interest in a transaction between a third party and the Council shall declare the nature and amount, if material, in accordance with the Accounting Standards Body's Financial Reporting Standard no. 8.

1.8 The Director of Central Services, as Monitoring Officer or in his/her absence the Head of Legal and Estates

Will report to the Council on any proposal, decision or omission that in his/her view is likely to result in the contravention of the law or any code of practice enacted under it, fails to comply with a legal duty, represents maladministration or is unjust, in accordance with section 5 of the Local Government and Housing Act 1989.

For these purposes he/she shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.

1.9 **The Director of Commerce and Technology, as Chief Finance Officer** or in his/her absence the Head of Financial Services

Will be responsible for the proper administration of the Council's financial affairs, prescribe appropriate financial systems, protocols, procedures and policies, maintain an internal audit service and report to the Council in the event of a decision or action leading to unlawful expenditure, a loss or deficiency or an unlawful accounting entry (in accordance with section 151 of the Local Government Act 1972, section 114 of the Local Government Act 1988 and the Accounts and Audit Regulations).

Will be responsible for ensuring the final accounts are completed and published by the statutory dates and reporting the details of any material amendments specified by the external auditor to the Corporate Governance Panel.

For these purposes he/she shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.

1.10 **The Head of Financial Services**

Will be responsible for detailed and operational aspects of the administration of the Council's financial affairs on behalf of the Director of Commerce and Technology, approving new financial systems and undertaking such duties as are set out in this Code.

1.11 **Chief Officers and Heads of Service**

Will be responsible for proper financial and resource management and the prevention of fraud and corruption within the services and functions under their control.

They will determine the inherent risks, within their services, to the achievement of the Council's priorities and establish, maintain and document adequate systems of internal control and financial monitoring, in consultation with the Internal Audit Service, and ensure that relevant employees or Members are familiar with such systems.

They may incur financial commitments and liabilities in accordance with this Code, the Council's Scheme of Delegation and resources allocated in Service Financial Plans.

Will be responsible for providing in a timely manner, the information necessary to ensure that the final accounts can be completed by the statutory deadlines.

They are responsible also for reviewing and varying fees and charges annually for services under their control, after

consultation with the relevant Executive Councillor(s) and/or Chairman of the relevant Panel. In doing so, they shall:

- Ensure that relevant legislation is complied with, particularly where it specifies the charges to be made or constrains them in some way.
- Having regard to the charges of any alternative service providers with whom the Council is competing, seek to maximise income, net of applicable costs, as far as is possible without compromising the Council's stated corporate priorities and objectives.

Discounts shall be provided where:

- They are expected to stimulate demand and generate additional net income which would otherwise not be obtained.
- They are in the best interests of the service and its customers, particularly where they make the services available to those who could not otherwise afford them, provided that such discounts do not result in additional net cost to the Council.

1.12 Internal Audit

Will be responsible for providing an independent and objective opinion on internal control, risk management and governance systems. In accordance with its terms of reference it shall undertake audit reviews that focus on areas of greatest risk to the Council in accordance with a programme agreed annually by the Director of Commerce and Technology after consultation with Heads of Service.

For these purposes internal audit shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.

1.13 Financial Limits

All financial limits included in this Code shall be updated by the most recently published annual increase in the RPI index on the 1st April each year and then rounded up to the next £100. The amended limits will be circulated as an Annex to this Code.

2. FINANCIAL AND SERVICE PLANNING

2.1 In the Summer - Overall Review

The Cabinet shall review the financial performance of the Council in the previous year, compared with the Annual Budget, on the basis of a report prepared by the Head of Financial Services in conjunction with Heads of Service.

2.2 In the Autumn - Financial Strategy

The Cabinet, after consultation with the Overview and Scrutiny Panels and appropriate organisations and bodies, shall recommend to the Council a Financial Strategy which will be used to determine the overall financial limits within which the Annual Budget (financial plan) and MTP will be prepared.

2.3 In the Winter - Annual Budget and MTP

The Cabinet shall, after consultation with the Overview and Scrutiny Panels, recommend to the Council an Annual Budget for the next financial year and a MTP for the succeeding four years, incorporating both capital and revenue expenditure, which is consistent with corporate and service strategies and the Financial Strategy. This Budget will include the allocation of resources to individual services and capital projects.

2.4 In the Spring - Service Financial Plans

Following approval of the Annual Budget each Head of Service shall update their Service Plan(s) to incorporate a Service Financial Plan, which sets out variations in the level of fees and charges and how the resources allocated will be used to meet service objectives in the forthcoming year.

3. CONTROLLING FINANCIAL PLANS

3.1 Increases and Commitments to Expenditure in Future Years

Commitments to expenditure beyond the current budget year may be made by a relevant Head of Service provided they are -

- ◆ consistent with the achievement of service objectives,
- ◆ compatible with the Council's Financial and other relevant Strategies, and
- ◆ can be met from their current budget level, taking account of any already approved variations in subsequent years (this excludes any MTP bids starting in future years, which are subject to annual review before inclusion in the budget)

If the Head of Service has any concerns about their proposal meeting these requirements they must consult the Head of Financial Services.

3.2 Grants, Cost Sharing and S106 Agreements

Where a Head of Service proposes to take advantage of grants from other organisations, or some other form of cost

sharing, whereby they will be able to deliver additional or improved services, consistent with their Service Plan, without creating any current or future commitment to additional net expenditure they may do so subject to having first -

- ◆ Informed the Head of Financial Services of the details
- ◆ Consulted the relevant executive councillor(s) if the proposal exceeds £30,000 revenue or £50,000 capital in any one year.

A Head of Service may utilise sums of money received under s106, or equivalent, agreements where the nature and location of the item/service is specified. If the nature and/or location is not specified the Head of Service may only utilise the sums following consultation with the relevant Executive Councillor(s). In either case the Head of Financial Services should be informed of the details.

3.3 Approvals for additional spending

Proposals for increases to the total allocated to Service Financial Plans in the current year (Supplementary Estimates) and their impact in future years may be approved by the Cabinet subject to the revenue impact not exceeding £300,000 in aggregate in any financial year. The impact of such approvals will be included in appropriate financial reports within the budget/MTP process and, once Council have noted these items, the Cabinet's limit will be re-set. This limit excludes any items funded from the contingency budget as described in the following paragraph.

The Director of Commerce and Technology may authorise the use of the contingency budget, subject to the item complying with the approved guidelines and following consultation with the relevant executive councillor(s).

In all other cases the approval of the Council will be required.

3.4 Budget Transfers

The transfer of resources between budgets is supported where it will make it more likely that the Council will achieve its service objectives and targets or enhance value for money. There do, however, need to be some limitations to ensure that executive councillors, Cabinet and Council are aware of any significant changes.

The Council has two types of budget. The first, service budgets, are defined for this purpose as the lowest level of detail supplied to the Council when they approve the annual budget. The Annex to this Code provides the list for the current year and the services which are listed within each Service Grouping. The breakdown of an approved Service Budget into specific elements of income and expenditure is initially determined by the relevant Head of Service and can

be varied at any time subject to him/her first consulting the Head of Financial Services.

The other type of budget is a Management Unit. This groups together the employee and ancillary costs for each section of employees before they are allocated to the service budgets they are providing support to. Each Head of Service will have responsibility for a number of these Management Units.

A Head of Service may approve a budget transfer between the Management Units that they are responsible for providing it is consistent with achieving service objectives and compatible with the Council's Financial and other relevant Strategies. The Head of Financial Services shall be notified of the detail of any budget transfer.

Chief Officers may approve budget transfers between services within a Service Grouping and/or the Management Units that their Heads of Service are responsible for providing it is consistent with achieving service objectives and compatible with the Council's Financial and other relevant Strategies. The Head of Financial Services shall be notified of the detail of any budget transfer.

Budget transfers between Service Groupings, capital schemes and the Management Units of different Directorates, where this will not preclude the achievement of service objectives, may be approved by the Director of Commerce and Technology after consultation with the Executive Councillors for Finance and the relevant service(s) so long as they do not exceed the following limits:

- ◆ **Revenue** - £30,000 or 10% of any budget involved, whichever is the higher, subject to a maximum of £50,000. Any previously approved transfers in the same year relating to those budgets shall be aggregated for determining whether the limit has been exceeded.
- ◆ **Capital** - £60,000 or 10% of any capital budget involved, whichever is the higher, subject to a maximum of £100,000. Any previously approved transfers in the same year relating to those budgets shall be aggregated for determining whether the limit has been exceeded.
- ◆ **Revenue to Capital** - £60,000. Any previously approved transfers in the same year relating to those budgets shall be aggregated for determining whether the limit has been exceeded.
- ◆ Such transfers shall be reported to the Cabinet for information in the next budget monitoring report.

Cabinet may approve budget transfers of up to:

Revenue	£100,000
Capital	£150,000

Revenue to Capital £150,000

Any previously approved transfers in the same year relating to those budgets shall be aggregated for determining whether the limit has been exceeded.

In all other cases the approval of the Council will be required.

3.5 Re-phasing of Expenditure

The re-phasing of expenditure, and consequent transfer of budget, between years may be made by the relevant Head of Service, following consultation with the Head of Financial Services, providing that it is consistent with service objectives and compatible with the Council's Financial and other relevant Strategies.

In all other cases the approval of the Cabinet will be required.

3.6 Price Changes

Variations to the totals in the Financial Strategy, the Medium Term Financial Plan and Service Financial Plans due to price changes will be determined by the Head of Financial Services after consultation with relevant Heads of Service.

3.7 Project Appraisals

All proposals for changes to the MTP will require an explanatory appraisal, unless the Head of Financial Services considers that the item is of a technical nature. Appraisals for new and modified schemes must be made available to Members, via the Council's intranet, by the date on which the related reports are circulated. Any appraisals for new schemes should also be attached to the relevant report.

3.8 Financial Monitoring

The financial performance of the Council will be reviewed by Cabinet quarterly on the basis of monitoring statements prepared by the Head of Financial Services in conjunction with Heads of Service.

The financial performance of each service and capital project will be reviewed by Chief Officers quarterly on the basis of monitoring statements prepared by Heads of Service in conjunction with the Head of Financial Services.

Heads of Service will ensure that relevant executive councillors are regularly informed of the progress in delivering approved MTP schemes.

4. CASH AND CREDIT MANAGEMENT

4.1 Banking

The Director of Commerce and Technology is responsible for all Council banking arrangements and shall maintain (an) account(s) with (an) appropriate bank(s) with a credit rating equivalent to 'Long Term AA' or better in the data published by Fitch IBCA. All transactions involving income or expenditure shall be dealt with through the Council's bank account(s).

4.2 Income

All employees receiving money (including cash, cheques, credit card payments etc.) must comply with the relevant procedures issued by the Head of Revenue Services to ensure that the sums are properly recorded, receipted and banked.

The Head of Revenue Services shall manage a debt collection service on behalf of the Council and all sums due must be registered by raising an invoice on the Council's Financial Management System or some other system or procedure approved by the Head of Revenue Services.

4.3 Loans

All borrowing will be undertaken by the Head of Financial Services in accordance with the Code of Practice for Treasury Management in Local Authorities, published by the Chartered Institute of Public Finance and Accountancy (CIPFA), and the Council's Treasury Management Policy and Annual Strategy Statement.

A report shall be submitted to the Cabinet prior to the start of each financial year so that it can recommend to the Council the maximum borrowing limits for the forthcoming financial year.

4.4 Investments

Investments shall be made by the Head of Financial Services in accordance with the Prudential Code for Capital Finance in Local Authorities published by CIPFA, Government guidance on Local Government Investments, the Council's Treasury Management Policy and Annual Strategy Statement, either directly or by utilising external fund managers.

Periodic reports shall be submitted to the Cabinet on Treasury Management and by 31st July each year an annual report shall be submitted on activities in the previous financial year.

4.5 **Payments**

Payments due to external suppliers of goods and services must be made through the Council's Financial Management System and in accordance with the payments procedures of that system, as determined by the Head of Financial Services.

5. **ACCOUNTING PROCEDURES**

5.1 The Council will follow the best practice guidance contained in the Accounting Code of Practice and other relevant publications produced by CIPFA in the preparation and maintenance of its accounts.

5.2 **Statement of Accounts**

The annual Statement of Accounts shall be presented to the Corporate Governance Panel for approval within the prescribed statutory timescale.

5.3 **Records**

Each Head of Service is responsible for maintaining records of financial transactions and commitments and employee time, in forms agreed with the Head of Financial Services, and for ensuring that all financial transactions are properly recorded in the appropriate financial period and to an appropriate account within the Council's Financial Management System.

5.4 **Retention of Documents**

Documents required for the verification of accounts, including invoices, shall be retained in a retrievable format for any statutory period, or otherwise for six years or such other time that is specified by the Head of Financial Services.

5.5 **Contingent Liabilities**

Any Officer who is aware of a material and outstanding contingent liability shall notify the Head of Financial Services, who shall include details in the Council's accounts or in a Letter of Representation to be presented to the Council's external auditors in respect of those accounts.

5.6 **Stock**

Where a formal stock account is used in connection with any service, the relevant Head of Service shall ensure that a certified stock-take is carried out in the last week of March each year, and that records of receipt and issue of all stock are maintained throughout the year in a manner agreed with the Head of Financial Services.

5.7 **Insurance**

The Head of Financial Services shall obtain insurance to protect the Council or minimise its potential losses from risks including those to employees, property, equipment and cash. Any decision not to insure significant risks must be based on a detailed risk assessment.

5.8 **Write-off of Irrecoverable Debts**

The Head of Revenue Services, or in his/her absence the Head of Financial Services, is authorised to write-off debts with an individual value of up to £4,000, or of a greater amount after consultation with the executive councillor responsible for finance, having taken appropriate steps to satisfy himself/herself that the debts are irrecoverable or cannot be recovered without incurring disproportionate costs.

A summary report detailing debts written-off shall be submitted to the Cabinet quarterly.

6. **ASSETS**

6.1 **Definition**

An asset is an item of land, building, road or other infrastructure, vehicle or plant, equipment, furniture and fittings or information and communications technology, (hardware and software) with a life exceeding one year.

6.2 **Capital Expenditure**

The purchase or improvement of any asset will normally be treated as capital expenditure. However, expenditure of less than £10,000, or £5,000 in the case of vehicles, plant and equipment, will not normally be treated as capital expenditure unless the Head of Financial Services considers it is in the Council's interests to do so.

6.3 **Asset Register**

The Head of Legal and Estates will, after consultation with the Head of Financial Services, determine the procedures for maintaining the Asset Register, including the information that needs to be recorded. Heads of Service will provide the prescribed information for all relevant assets relating to their services in accordance with those procedures.

6.4 **Acquisition**

Assets shall only be acquired if provision is included in a Service Financial Plan or as a result of specific approval by the Cabinet. The purchase of assets must be in accordance with the procedures specified in the Council's Code of Procurement, having regard to the value of the asset.

The relevant Head of Service shall inform the Head of Financial Services within 10 working days of the acquisition of an asset which meets the definition for capital expenditure.

6.5 Leases

Finance and Operating leases are to be used only if they are in the Council's financial interest and with the approval of the Head of Financial Services.

6.6 Control of Assets

Each Head of Service is responsible for ensuring that the assets relating to their services are properly safeguarded, managed and maintained, and used only to achieve the Council's objectives. This will include establishing and maintaining appropriate security, control systems and records. They will need to consult relevant officers in relation to specialist items and, where vehicles are concerned, the officer holding the Council's Operating Certificate who has specific statutory responsibilities.

6.7 Disposal of Assets

The sale of assets must be in accordance with the procedures specified in the Council's Code of Procurement, having regard to the current value of the asset.

The relevant Head of Service shall inform the Head of Financial Services within 10 working days of any disposal of an asset included in the Asset Register.

6.8 Valuations

Assets will be re-valued at five yearly intervals by an appropriately qualified person according to the type of asset. Where appropriate, interim valuations will be recorded on the Asset Register by reference to a suitable index.

SERVICES WITHIN SERVICE GROUPINGS
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Refuse Collection
Domestic Refuse Refuse Policy Trade Refuse
Recycling
Recycling Kerbside Collections Recycling Policy Recycling Sites Green Waste
Street Cleansing & Litter
Fly Poster/Graffiti Removal Litter Control Street Cleansing Operations Street Cleansing Policy Weed Control
Drainage & Sewers
Internal Drainage Boards Septic Tanks & Nightsoil Watercourses
Public Conveniences
Public Conveniences
Environmental Health
Abandoned Vehicles Air Quality Animal Welfare Burials Under Health Acts Caravans And Camping Contaminated Land Eh Health & Safety Energy Efficiency Environmental Health General Food Safety Health Promotion Nuisances Pest Control Private Housing Eh Travellers

Development Control
<ul style="list-style-type: none"> Advice Alconbury Appeal Appeals Application Processing Development Control Panel Enforcement Environmental Assessment S106 Agreements Administration
Building Control
<ul style="list-style-type: none"> Advice Applications Promotion & Enforcement Sustainable Construction
Planning Policy & Conservation
<ul style="list-style-type: none"> Biodiversity Action Plan Cambs Historic Churches Trust Cambs Sub Region Infrastructure Conservation Management Conservation Technical Support Kimbolton Small Works Listed Buildings Local Plan Parish Plans Ramsey Rural Renewal Rural Renewal N & E Hunts St Neots Cap Scheme Strategic & Regional Planning Structure Plan Town Centre Vision Trees
Markets
<ul style="list-style-type: none"> Farmers Markets Huntingdon Market Markets Management Ramsey Market St Ives Bank Holiday Market St Ives Market St Neots Market
Economic Development
<ul style="list-style-type: none"> Business & Enterprise Support Industrial Properties Miscellaneous Properties NNDR Discretionary Relief Town Centre Management

Planning Delivery Grant
Planning Delivery Grant Planning Grant Unallocated
Corporate Events
Leisure Grants Priory Centre
Leisure Centres
Huntingdon Leisure Centre Ramsey Leisure Centre Leisure Centres Overall Sawtry Leisure Centre St Ivo Leisure Centre St Neots Leisure Centre
Leisure Policy
Arts Development Leisure Development Policy and Strategic Mgt
Parks
Highways Amenities Parks Contracts Parks Management Pavilions
Countryside
Barford Road Pocket Park Countryside Management Hinchingsbrooke Country Park Holt Island Ouse Valley Way Paxton Pits Paxton Pits R&R Fund Spring Common

Tourism
<p> Accommodation Guide Brown Signs Discover Cambridgeshire District Promotion EETB Domestic Marketing EETB Overseas Marketing Familiarisation Trips (TIC) Family Pack Gardens and Nature Leaflet Group Travel Guide History and Heritage Leaflet Mini Guides Newsletter Out & About Ramsey TIC Short Breaks Guide Tip Posters Tip Renewal & Repair Tourist Services Web Development </p>
Community Initiatives
<p> Com Initiatives – Housing Com Initiatives – Leisure Community Strategy Equal Opportunities Health For Huntingdonshire Health For Hunts Yaxley Healthy Living Centre Hunts Learning Partnership Local Agenda 21 Miscellaneous Grants Oxmoor Action Plan Yaxley Community Project Young People’s Project </p>
Housing Services
<p> Common Housing Register Contributions To H R A Housing Advances Housing Advice Housing Developments Housing Strategy Mobile Home Park Publicising Housing Services Waiting List </p>

Private Housing Support
<ul style="list-style-type: none"> Home Improvement Agency Housing Associations Housing Surveys Renovation/Improvement Grants
Homelessness
<ul style="list-style-type: none"> Homelessness Management Homeless Young Persons Advisor Hostel Support Rental Deposit Scheme Supporting People Scheme Temp Accommodation – B&B
Housing Benefits
<ul style="list-style-type: none"> Rent Allowance Local Scheme Rent Allowance National Scheme Housing Benefits Admin Temporary Accommodation Support
Community Safety
<ul style="list-style-type: none"> CCTV Community Partnership
Transportation Strategy
<ul style="list-style-type: none"> Accessibility Improvements Cycle Routes Cycle Shelters Environmental Management Transportation Developments Transportation Grants Transportation Strategy
Public Transport
<ul style="list-style-type: none"> Bus Shelters Concessionary Fares Huntingdon Bus Station Rail Passes St Ives Bus Station
Highways Services
<ul style="list-style-type: none"> Highways Cyclic Maintenance Highways Management Highways R&R Schemes
Car Parks
<ul style="list-style-type: none"> Car Park Management Car Park Policy

Environmental Improvements
<p> Env Imps Feasibility Studies Env Imps Management Environmental Imps Renewals Gazebo R&R Godmanchester Env Improvements Huntingdon Env Improvements Other Schemes Ramsey Env Improvements Small Scale Env Improvements Somersham Env Improvements St Ives Env Improvements St Neots Env Improvements Yaxley Env Improvements </p>
Administrative Services
<p> District Elections Elections Periodic Review Electoral Registration Emergency Planning Land Charges Licences National & County Elections Parish Elections </p>
Local Taxation & Benefits
<p> Council Tax Council Tax Benefits NNDR Administration </p>
Corporate Management
<p> Bank Charges Best Value Customer First External Audit Information & Promotion Local Council Support Pensions Policy and Strategy Public Accountability System & Asset Management Telecommunications Unallocated Central Overheads </p>

Democratic Representation
Corporate Committees Corporate Subscriptions Member Expenses & Allowances Member Support Twinning
Contingency
Efficiency Savings Contingency General Contingency Other Contingencies
Other Expenditure
Capital Charges Reversed Commutation Transfer Pensions Liabilities Reversed VAT Partial Exemption
Investment Interest
Interest Paid Interest Received

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CODE OF PROCUREMENT

1. INTRODUCTION

- 1.1 The Code of Procurement defines the regulatory and legal framework for procurement. It has been adopted in accordance with the requirements of Section 135 (2) of the Local Government Act 1972.
- 1.2 This Code applies to the procurement, hire, rental or lease of -
- ◆ land and buildings, roads or other infrastructure;
 - ◆ vehicles or plant;
 - ◆ equipment, furniture and fittings;
 - ◆ construction and engineering works;
 - ◆ information and communication technology - hardware and software;
 - ◆ goods, materials and services;
 - ◆ repairs and maintenance; and
 - ◆ consultants, agents and professional services.
- 1.3 This Code does not apply to purchases made from internal management units.
- 1.4 The Code applies also to the sale of assets and goods by the Council where the appropriate Head of Service estimates that the assets, goods or services to be sold exceed £1000. Where the value is estimated to be less than £1000 then the 'Sale of Equipment' procedures contained within the Inventory procedures shall be followed.
- 1.5 The Council includes the Cabinet, panels, committees or other body or person(s) acting in accordance with delegated authority on behalf or the Council.
- 1.6 All procurements or sales made by or on behalf of the Council shall comply with this Code, subject to any overriding requirements of the Council's Rules of Procedure and Code of Financial Management and British or European Union law or regulation.
- 1.7 Throughout the Code, reference to contractor(s) or sub-contractor(s) shall mean any person, company or supplier who has -
- ◆ requested to be on an approved or ad-hoc approved list of tenderers;
 - ◆ been approached to provide a quotation or tender;
 - ◆ provided a quotation or tender; or
 - ◆ been awarded a contract in accordance with the provisions of this Code.
- 1.8 The Head of Financial Services shall annually review all the financial values contained in the Code to take account of the impact of inflation. The Head of Financial Services shall inform all Heads of Service of any amendments to the values prior to the 1st April from which they shall be operative.

2. REPORTING PROCEDURES AND EU COMPLIANCE

2.1 EU Procurement Directives require the Council, to report procurements likely to exceed EU thresholds, both at the start of the year and on an ad-hoc basis as new or changed requirements arise. The ODPM also seeks a financial year-end report based on procurements and contracts advertised on the Official Journal of the European Union (OJEU). The EU thresholds are:

Contract	Threshold Euros	Threshold £ (Approx)
Supplies	€200,000	£ 153,000
Services	€200,000	£ 153,000
Works	€5,000,000	£ 3,834,000

2.2 Financial Year Start Reporting

At the start of each financial year (1 April) Heads of Service shall:

- ◆ provide the following information to the Procurement Manager -
 - Details of each contract expected to be advertised in the following year.
 - An estimate of the total value for each discrete procurement area where the spend is likely to exceed £100,000.
- ◆ advertise very brief details of each contract expected to be advertised in the following year. The advertisement shall take the form of a Prior information Notice (PIN). The publishing of a PIN does not commit the Council, but can reduce timescales if the requirement is subsequently advertised through OJEU.

A PIN is also required if the estimate of the aggregated value of the contracts for a given coding class exceeds the published PIN thresholds:

Contract	Threshold Euros	Threshold £ (Approx)
Supplies	€750,000	£ 480,000
Services	€750,000	£ 480,000
Works	€5,000,00	£ 3,834,000

Contract values are the Council's aggregated spend and not individual Directorates or Services. Therefore, the Procurement Manager shall advise the Head of Service if their aggregated spend is to be advertised as a PIN.

Aggregated values can be calculated by one of the following methods -

- ◆ the total value purchased over the last financial year; or
- ◆ the estimated value of all contracts expected to be placed in the next financial year or the term of the contract if that is longer; or

- ◆ where the contract is open-ended or of uncertain duration, such as those for the hire of goods or for the delivery of a particular service, the value is based on the estimated average monthly expenditure multiplied by 48 (4 years).

2.3 Through Year Reporting

Heads of Service shall report, using a PIN where time permits, new or additional requirements likely to meet or exceed EU thresholds as they arise.

2.4 End of Year Reporting

ODPM seeks a report each year from all Councils regarding contracts awarded through OJEU during the previous year. By the 30 Apr each year, Heads of Service shall provide the Procurement Manager with the following details for contracts placed through OJEU procedures -

- ◆ Services: Service Category.
- ◆ Supplies: Nipro Class.
- ◆ Works: Nace Group.
- ◆ Service Provider Nationality.
- ◆ Award Procedure:
- ◆ Justifications if Negotiated procedure.
- ◆ Value.

3. METHODS OF ORDERING

3.1 All orders shall be placed through one of the following recognised methods -

- ◆ An order raised on CedAR Purchase Order Process.
- ◆ A Procurement Card Order.
- ◆ An Electronic order
- ◆ A Manual Purchase Order.

3.2 Use of an appropriate ordering method ensures that the Council achieves -

- ◆ The opportunity to obtain leverage for volume.
- ◆ Regulatory compliance.
- ◆ Visibility of all procurement activity.

3.3 Where there is an exception requirement and the relevant Director or Head of Service considers that the work is of an emergency nature necessary to enable the service to continue and none of the ordering methods are suitable, the relevant Director or Head of Service shall record the details of the exceptional requirement and the action taken for future Audit.

4. 'BEST VALUE' AND THE NEED TO COMPETE REQUIREMENTS

4.1 The Council seeks 'Best Value' in all procurement activity and will standardise on 'adopted' corporate contracts and frameworks. An adopted contract and framework is the preferred contract for the Council's business within a defined category (a type or group of goods or services). The Procurement Manager shall recommend a contract or framework as 'adopted' to COMT and, subject to approval, shall publish details in Procurement Protocols & Guidelines. Heads of Service shall ensure that orders for such categories are placed through the appropriate 'adopted' framework. The Procurement Manager

shall keep under review the continued suitability of any such contracts or framework agreements.

4.2 Where there is no adopted contract or framework, Heads of Service shall, wherever practicable, seek to maximise contract values with other Heads of Service to secure lower costs.

4.3 Where there is no adopted contract or framework, the Council nevertheless wishes to balance the effort of going to the Market with the effort and efficiency of the procurement process. Heads of Service after determining the proposed contract's total value shall then follow one of the procurement procedures detailed below. These procedures shall be used in **all** procurements or sales bar those exceptions at paragraph 4.6.

Estimated Total Value of Procurement	Requirement
Up to £5,000	Estimates or offers shall be obtained and recorded to ensure the Head of Service has obtained Best Value.
£5,001 to £30,000	Competitive written quotations or offers shall be invited, unless the Head of Service has complied in full with paragraph 5.3e of this Code.
£30,001 to European Union Procurement Threshold	Competitive tenders shall be obtained using one of the tendering options in this Code, and a formal written contract prepared in accordance with paragraph 11.2.
Above the EU Threshold specified below	The appropriate EU procurement directive shall be complied with.

4.4 A Head of Service may choose to competitively tender requirements less than £30,000.

4.5 Achieving 'Best Value' needs valid competition and valid competition is dependant on the existence of an 'open' market with the selected Contractors having the interest, capability and capacity for the work or business being offered. Wherever possible a minimum of three competitive tenders or quotations shall be sought. In selecting contractors to provide a tender or quotation Heads of Service shall ensure that wherever possible -

- ◆ the selection process they are using is fair and equitable, and that no favouritism is shown to any one contractor.
- ◆ checks are made to ensure that contractors are interested in this type of business.
- ◆ repeat or 'automatic' invitations to the 'same' contractor or group of contractors are avoided, particularly where previously invited to bid and had failed to do so.
- ◆ 'new' contractors are sought and invited to tender or quote.
- ◆ the geographic area of the search for potential contractors is widened.
- ◆ 'no-bids' are checked for the reasons for a contractor's failure to bid.

4.6 **Exceptions**

Nothing in this Code shall require tenders or quotations to be sought: -

- (a) for purchases made through ESPO;
- (b) for purchases made at public auction;
- (c) for purchases through any local authority or government consortium, collaboration or similar body, where the procurement rules of that organisation have been adopted. The Director of Central Services shall approve and keep under review the continued suitability of any such organisations (see Para. 6.1 below); or
- (d) where the relevant Director or Head of Service -
 - ◆ considers that the work is of an emergency nature or is necessary to enable the service to continue; or
 - ◆ with the Head of Financial Services' agreement considers that it is in the Council's best interest in negotiating a further contract for works, supplies or services of a similar nature with a contractor who is currently undertaking such work.
- (e) The relevant Director or Head of Service shall report details of all work awarded under paragraph (d) ante -
 - ◆ to the Director of Central Services who shall make a record in a register kept for that purpose; and
 - ◆ to the next meeting of the Cabinet.

5. **TENDER METHODS AND PROCEDURES**

5.1 **Form of Tenders and Requests for Quotations**

To support the Council complying with the Freedom of Information Act 2000 (FOIA), all tenders and requests for quotations shall include as a minimum -

“All information supplied to the Authority will be subject to the provisions of the Freedom of Information Act 2000 and as such may be disclosed by the Authority when required to do so under the Act. When such disclosure is necessary the Authority shall use reasonable endeavours to consult with the provider of the information prior to disclosure”.

5.2 **Recording of Quotation Requests**

The Head of Service shall keep a record, in the form agreed by the Director of Central Services, of -

- ◆ all those contractors that were requested to provide a quotation;
- ◆ the reasons why those particular contractors were selected to provide a quotation; and
- ◆ if applicable, the reasons why less than three contractors were selected to provide a quotation.

5.3 Tendering Options

Heads of Service shall select one of the following tendering methods. If any alternative tendering method is proposed then approval of the Cabinet is required before the proposed tendering option is followed. In selecting contractors who are to be requested to provide a tender Heads of Service shall comply with paragraph 4.5.

<i>Tender Option</i>	Requirement
A. Ad Hoc Tender Open tender	Public notice shall be given in one or more newspapers and/or in an appropriate trade journal. The notice shall state the nature and purpose of the contract, where tender documentation can be obtained, and state the closing date for the receipt of tenders.
B. Approved List of Tenderers Restricted tender	Tenders shall be invited from at least three contractors selected from an approved list established in accordance with paragraph 6.1 of this Code.
C. Ad Hoc Approved List of Tenderers Open restricted tender	Tenders shall be invited from a list of contractors compiled in accordance with paragraph 7.1 of this Code for a specific contract.
D. Serial Tenders	The proposed contract shall form part of a serial programme. The contract terms shall be negotiated with a contractor, using as a basis for negotiation the rates and prices contained in an initial contract that was awarded following a competitive tendering process that complied with this Code. No more than two serial contracts shall be negotiated from an initial contract.
E. Single Tenders	<p>A Head of Service after consulting the Director of Central Services may obtain a single tender (or quotation – see paragraph 5.3 above) when:</p> <ul style="list-style-type: none"> • Prices are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available. • Work to be executed or goods, services or materials to be supplied consist of repairs to or the supply of parts of existing proprietary machinery, equipment, hardware or plant and the repairs or the supply of parts cannot be carried out practicably by alternative contractors. • Specialist consultants, agents or professional advisers are required and <ul style="list-style-type: none"> ○ there is no satisfactory alternative; or ○ evidence indicates that there is likely to be no genuine competition; or ○ it is in the Council's best interest to engage a particular consultant, agent or adviser. • Products are sold at a fixed price, and market conditions make genuine competition impossible. • No satisfactory alternative is available. <p>If the Single Tender option is used, the Head of Service shall:</p> <ul style="list-style-type: none"> • notify the Director of Central Services who shall make a record in a register kept for that purpose; • retain records that demonstrate that the best price or value for money has been obtained from the negotiations with the tenderer.

Except to the extent that the Cabinet in a particular case or specified categories of contract otherwise decides, all quotations or tenders that are being sought shall -

- ◆ include approved contract terms in accordance with paragraph 11.2 of this Code;
- ◆ be based on a definite written specification, which shall include an award criteria, which if it is not to be the lowest price shall be agreed by the appropriate Director;
- ◆ if appropriate, include a requirement for a performance bond and liquidated damages.

5.4 Non-Traditional Procurement

If a Head of Service believes that by following one of the procurement procedures detailed in paragraph 4.3 above, that the procurement process will not provide him with the most appropriate method of service delivery, the most competitive prices, allow for continuous improvements in service delivery, or stifle procurement innovation, then he may suggest alternative procurement strategies.

The Head of Service shall produce, in accordance with guidance issued by the Director of Central Services and prior to proceeding with the procurement, a written procurement strategy that shall be approved by the Director of Central Services and the Cabinet.

6. PROCEDURE FOR THE APPROVAL AND MAINTENANCE OF APPROVED LISTS OF TENDERERS

6.1 Only those lists containing details of contractors that are compiled and maintained by an external organisation to the satisfaction of the Director of Central Services, after consultation with the Head of Financial Service and the other relevant Heads of Service shall be adopted as approved lists of tenderers. The Procurement Manager shall ensure that the external organisation and approved list of contractors is detailed in Procurement Protocols & Guidelines.

6.2 If a Head of Service believes that the approved list of tenders does not allow him to obtain sufficient competition for 'Best Value', the Head of Service shall write to the Director of Central Services seeking approval to source additional contractors. Instructions for sourcing additional contractors are detailed in Procurement Protocols & Guidelines. All additional contractors sourced will be required to complete the approved list checks and their inclusion in competition will depend on satisfactory completion of the checks.

6.3 The Director of Central Services in conjunction with the Head of Financial Services and relevant Heads of Service shall review the continued suitability of an Approved List of Tenderers periodically and at least prior to the third anniversary of its initial or further adoption.

7. PROCEDURE FOR THE APPROVAL OF AD-HOC APPROVED LISTS OF TENDERERS

7.1 A public notice shall be issued inviting applications for inclusion on a specific approved list for the supply of goods, services or materials. The ad-hoc

approved list of tenderers shall be established from contractors replying to the public notice or who have requested within the previous 12 months to be included on an ad-hoc approved list for work of a similar nature.

7.2 The Head of Service shall undertake sufficient vetting to ensure that ad-hoc approved lists shall -

- ◆ be approved by the appropriate Head of Service after consultation with the Director of Central Services and the Head of Financial Services; and
- ◆ only be used for seeking tenders for the supply of goods, services or materials specifically detailed within the original public notice.

8. SUB-CONTRACTS AND NOMINATED SUPPLIERS

8.1 Quotations or tenders for sub-contracts to be performed or for goods, services or materials to be supplied by nominated sub-contractors shall be invited in accordance with this Code.

8.2 The relevant Head of Service is authorised to nominate to a main contractor a sub-contractor whose quotation or tender has been obtained in full accordance with this Code.

9. RECEIPT AND OPENING OF TENDERS AND QUOTATIONS

9.1 Where tenders or quotations are invited in accordance with this Code no tender or quotation will be considered unless -

- ◆ contained in a plain envelope which shall be securely sealed and shall bear the word "Tender" or "Quotation" followed by the subject to which it relates; or
- ◆ it has been sent electronically to a specific e-mail address, which the appropriate Head of Service shall obtain from the Head of Information Management.

9.2 Further to paragraph 9.1 above -

- ◆ the envelope shall not bear any distinguishing matter or mark intended to indicate the identity of the sender. Contractors shall be notified accordingly. Such envelope shall be addressed impersonally to the Director of Central Services if it contains a "Tender" or the appropriate Head of Service if it contains a "Quotation"; and
- ◆ the Head of Information Technology shall ensure that the e-mail address is secure, can only be accessed by the Director of Central Services or officers specifically appointed by him.

9.3 All envelopes or e-mails received shall be kept securely and shall not be opened or accessed until the time appointed for their opening.

9.4 All tenders or quotations invited in accordance with this Code shall be opened at one time only and by at least two officers -

- ◆ tenders shall be opened by officers nominated by the Director of Central Services and by the appropriate Head of Service. The Head of Financial Services shall be notified of the time and place appointed for the opening; and

- ◆ quotations shall be opened by the appropriate Head of Service and/or his nominee(s).

9.5 All tenders or quotations upon opening shall be recorded in writing on either a tender or quotation opening record, as is appropriate. The format of the opening record shall have been previously agreed with the Director of Central Services and Head of Financial Services. The Form of Tender or Quotation and any accompanying documentation shall be marked with the date of opening, and signed by all officers present at the opening. The tender or quotation opening record shall be signed by at least two officers present at the opening.

9.6 The original opening record shall be retained by the Director of Central Services in respect of tenders, and the relevant Head of Service in respect of quotations.

9.7 Any tenders or quotations received after the specified time shall be returned promptly to the contractor by the Director of Central Services or his nominated officer in respect of tenders, or by the appropriate Head of Service or his nominated officer in respect of a quotation. The tender or quotation may be opened to ascertain the name of the contractor but no details of the tender or quotation shall be disclosed.

10. ACCEPTANCE OF TENDERS AND QUOTATIONS

10.1 The appropriate Head of Service shall evaluate all the tenders or quotations received in accordance with the award criteria set out in the bid documentation and shall accept, subject to the provisos set out in this paragraph, either -

- ◆ the lowest priced tender or quotation; or
- ◆ the most economically advantageous tender or quotation, as evaluated against the award criteria.

10.2 Tenders or quotations exceeding the approved estimate may only be accepted once approval to further expenditure is obtained.

10.3 If the lowest priced, or most economically advantageous exceeds £30,000 -

- ◆ but is within 15% of the original estimate, the appropriate Head of Service may accept the quotation without seeking further competition; and
- ◆ is in excess of 15% of the original estimate then a competitive tender exercise in accordance with paragraph 5.3 above shall be carried out, unless the appropriate Head of Service has consulted and obtained the approval of the Director of Central Services and relevant executive councillor that the quotation can be accepted.

10.4 A tender or quotation shall not be accepted -

(a) where payment is to be made by the Council and -

- ◆ it is not the lowest priced tender or quotation, or
- ◆ the most economically advantageous tender or quotation in accordance with the award criteria set out in the tender or quotation documentation; or

- (b) if payment is to be received by the Council and the tender or quotation is not the highest price or value;
- (c) unless -
 - ◆ the Cabinet have considered a written report from the appropriate Head of Service, or
 - ◆ in cases of urgency, the Director of Central Services has consulted and obtained the approval of the relevant executive councillor. Tenders or quotations accepted in this way shall be reported by the appropriate Head of Service to the next meeting of the Cabinet.

10.5 Where post-tender negotiations have been undertaken in accordance with paragraph 10.6 below, the appropriate Head of Service shall only accept the lowest priced tender received. A tender other than the lowest shall not be accepted until the Cabinet have considered a written report from the appropriate Head of Service, and recommended acceptance of a tender other than the lowest.

10.6. **Arithmetical Errors and Post-Tender Negotiations**

Contractors can alter their tenders or quotations after the date specified for their receipt but before the acceptance of the tender or quotation, where examination of the tender or quotation documents reveals arithmetical errors or discrepancies which affect the tender or quotation figure. The contractor shall be given details of all such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing his offer.

In evaluating tenders, the appropriate Head of Service may invite one or more contractors who have submitted a tender to submit a revised offer following post-tender negotiations.

All post-tender negotiations shall -

- ◆ only be undertaken where permitted by law and where the appropriate Head of Service, Head of Legal and Estates and Head of Financial Services consider additional financial or other benefits may be obtained which over the period of the contract shall exceed the cost of the post-tender negotiation process;
- ◆ be conducted by a team of officers approved in writing by the appropriate Head of Service, Director of Central Services and Head of Financial Services;
- ◆ be conducted in accordance with guidance issued by the Director of Central Services; and
- ◆ not disclose commercially sensitive information supplied by other bidders for the contract.

Post-tender negotiations shall not be used to degrade the original specification unless the capital or revenue budget is exceeded, or the appropriate Director or Head of Service considers other special circumstances exist, in which case all those contractors who originally submitted a tender shall be given the opportunity to re-tender.

The appropriate Head of Service shall ensure that all post-tender negotiation meetings are properly minuted with all savings and benefits offered clearly costed. Following negotiations but before the letting of the contract,

amendments to the original tender submitted shall be put in writing by the contractor(s) and shall be signed by him.

11. TERMS OF BUSINESS AND THE FORM OF CONTRACTS

11.1 All orders placed by the Council shall be on the Council's Terms and Conditions (T&Cs). Heads of Service shall not use Contractor's documentation to order, acknowledge, instruct to proceed or make any other commitment where the documentation makes any reference to the Contractor's T&Cs. Where a contractor formally insists on trading on T&Cs other than the Council's T&Cs, the Procurement Officer shall be informed, except for -

- ◆ Any contract where the estimated total value is likely to exceed £30,000, Paragraph 11.2 shall apply.
- ◆ Any framework or contract formally adopted by the Council.
- ◆ ESPO arranged contracts and orders.
- ◆ Orders of a total value of less than £ 5,000 where the goods or service are purchased on a 'retail' basis on terms available to the general public.
- ◆ Orders for software where the licence is for 'standard' product but not where customisation, development or on-site service is required for the 'standard' product.

11.2 Every contract that exceeds £30,000 in value shall be in writing in a form approved by the Head of Legal and Estates who shall also determine the format of any contract for a lesser value. Heads of Section shall ensure that advice of the Head of Legal and Estates is sought at a stage as early as practicable (normally before the issue of an Invitation to Tender).

11.3 In the case of any contract for the execution of works or for the supply of goods, services or materials, the Head of Service after consulting with the Head of Financial Services and the Head of Legal and Estates shall consider whether the Council should require security for its due performance and shall either certify that no such security is necessary or shall specify in the specification of tender the nature and amount of the security to be given. In the latter event, the Council shall require and take a bond or other sufficient security for the due performance of the contract.

11.4 Heads of Service shall produce the final version of all contracts in 2 copies and present both to the Authorised Officer for signature. Once signed by the contractor, the signed contract, all original documents, including specifications, drawings, tender documents and correspondence relating to a contract exceeding a total value of £30,000 shall be forwarded by the Head of Legal and Estates. Where the total value of the contract is less than £30,000 the relevant Head of Services shall make arrangements for the retention of all the original documentation.

11.5 Heads of Service shall maintain a record (in the form detailed in the Procurement Protocols & Guidance) for their area of each contract or agreement (both written and verbal agreements).

11.6 Heads of Service shall include the specific T&Cs listed in the Procurement Protocols & Guidance in all contracts. Where a Head of Service considers a term or condition inappropriate they shall seek advice of the Head of Legal and Estates on the modification or deletion of the term or condition.

12. LETTERS OF INTENT

12.1 Letters of intent provide a contractor with the authority to proceed prior to the award of a contract. However, letters of intent have two main disadvantages:-

- (a) if the contract is not awarded the contractor is entitled to payment regardless as to whether the work was actually needed;
- (b) the Council's negotiating position is weakened as the contractor may believe actual award of contract is a formality and therefore, the contractor may refuse to accept conditions that are seen as disadvantageous.

12.2 Heads of Service shall ensure that:-

- (a) all letters of intent are in a form approved by Head of Legal and Estates;
- (b) all letters of intent are signed by an Authorised Officer with sufficient authority for either the value of the intended contract or the estimated value of any 'extension' period defined in the letter of intent.

13. RETENTION OF DOCUMENTS

13.1 Heads of Service shall ensure that every contract or order is assigned a unique reference number to be used in all correspondence. The unique reference number shall comprise abbreviation for the Division and year. Formal amendments to a contract or order should also be given unique numbers showing the order in which the amendments were made.

13.2 Documentation retention periods are dictated by the Statute of Limitations and (where applicable) EU requirements. The following rules apply:-

- (a) retention for 12 years from the date of completion of the contract for contracts made under deed;
- (b) retention for 6 years from the date of completion of the contract: -
 - ◆ Contract Documents
 - ◆ Hire/Rental Agreements
 - ◆ Successful Tenders
 - ◆ Summary of Tender Opening
 - ◆ Disposal Board papers
 - ◆ Evaluation reports
 - ◆ Goods Received Notes
 - ◆ HM Customs and Excise Import documentation
 - ◆ Invitations to Tender/Quotation Requests
 - ◆ Maintenance/Software licence agreements
 - ◆ Specifications
 - ◆ Successful Quotations
 - ◆ Suppliers' Advice Notes;
- (c) retention for 3 years after the last entry -
 - ◆ Stock and Purchase Record Cards or Registers;

(d) retention for 2 years after the financial year to which the document relates -

- ◆ Unsuccessful Quotations.
- ◆ Unsuccessful Tenders.

14. FREEDOM OF INFORMATION ACT 2000 (FOIA)

14.1 Heads of Sections shall ensure that the handling of requests for procurement information complies with the detailed guidance published as Procurement Protocols & Procedures and the general FOIA guidance published by the Council's Freedom of Information Officer.

15. CONSULTANTS

15.1 It shall be a condition of the engagement of any consultant, agent or professional adviser who is to be responsible to the Council for the management or supervision of a contract on its behalf, that in relation to that contract he shall -

- ◆ comply with this Code as though he were an employee of the Council;
- ◆ at any time during the carrying out of the contract produce to the appropriate Head of Service, on request, all the records maintained by him in relation to the contract; and
- ◆ on completion of the contract transmit all records that he has produced or received that relate to the contract to the appropriate Head of Service.