

**Agenda Item No 8(e)**

**DERBYSHIRE COUNTY COUNCIL**

**COUNCIL**

**6 February 2019**

**Report of the Director of Finance & ICT**

**REVISED FINANCIAL REGULATIONS AND STANDING ORDERS  
RELATING TO CONTRACTS**

**1 Purpose of the Report**

To seek approval for the adoption of revised Financial Regulations and Standing Orders relating to Contracts.

**2 Information and Analysis**

A detailed revision of the Council's Financial Regulations took place in 2014, with a further review during the latter part of 2017.

It is recognised that the changes previously made are working well, however, it was felt appropriate to revisit and review them, particularly in light of the establishment of the 'Enterprising Council' approach. Whilst maintaining sound arrangements for internal control, the emphasis has been to examine the areas where routine decisions could be delegated to officers to reduce the number of reports taken to Cabinet and Cabinet portfolio member meetings, and also to address the need for Departments to be able to be more responsive when making financial and procurement decisions.

Due to the close alignment between the Council's Financial Regulations and the legal and governance requirements concerning the creation and letting of contracts, it was considered appropriate to review the Standing Orders relating to Contracts at the same time. Consequently the Standing Orders relating to Contracts have been redrafted and developed to include a General section, a Competition section and a Contracts section.

These changes will be underpinned by revised schemes of Departmental financial delegations which will set out the requirements required to ensure compliance with the revised Financial Regulations and Standing Orders relating to Contracts.

The revised Financial Regulations and Standing Orders relating to Contracts are appended to this report.

The key areas that are being recommended for change are:

## Procurement

When the Financial Regulations were amended in 2014, 10 protocols were introduced covering procurement and award procedures. These protocols encompassed changes in financial thresholds, evaluation of risk, increased requirements for transparency and the use of framework agreements. As part of this review it is proposed to make the following amendments:-

- A reduction in the number of procurement protocols from 10 to 8 to simplify the system.
- Increase in the financial threshold at which the Council would expect a more formal tendering procedure from £25,000 to £50,000. Below this threshold three quotes are required and for any purchase below £1,000 only one quote is required.
- Authorisation to procure and award contracts is delegated to Strategic Directors, provided the procurement has been identified in the Departmental Service Plan. This will enforce discipline amongst officers to properly plan for procurements encouraging them to identify such purchases at an early stage in order that they appear in the Departmental Service Plan at the start of the financial year. If so, then no matter what the value the relevant Strategic Director can approve the procurement rather than Cabinet or Cabinet Member. This will also significantly reduce the amount of Cabinet exempt business.
- The exceptions to the above will be where the procurement was not identified in the Departmental Service Plan; there is a recommendation to use a sole supplier (protocol 6); there is a material change to an existing contract (protocol 7); or where a contract extension is sought (protocol 8) – in these cases the proposed award limits in connection with the award of contracts in the table below would be used:

|                    | Current                   | Proposed                    |
|--------------------|---------------------------|-----------------------------|
| Strategic Director | Up to £100,000            | Up to £181,302 (OJEU limit) |
| Cabinet Member     | From £100,000 to £181,302 | From £181,302 to £500,000   |
| Cabinet            | Over £181,302             | Over £500,000               |

Many of the procurement protocol approval limits previously introduced refer to the OJEU limit, which is currently £181,302. It is to be noted that this limit is reviewed on a bi-annual basis and will next be reviewed and amended in January 2020.

## Write off of redundant stocks/stores

The proposed new limits will be in line with other limits within the Financial Regulations:

| Written off by                             | Current            | Proposed                    |
|--|--------------------|-----------------------------|
| Strategic Director/Chief Financial Officer | Up to £25,000      | Up to £181,302 (OJEU limit) |
| Cabinet Member                             | £25,000 - £100,000 | £181,302 - £500,000         |
| Cabinet                                    | Over £100,000      | Over £500,000               |

## Write off of bad debt

The Council has very robust systems and processes in place to recover bad debts. By the time permission is sought from Members to write off a debt, it is already deemed to be irrecoverable.

It is proposed, therefore, to remove debt write off limits and delegate responsibility to write off any debt, regardless of value, to the Chief Financial Officer or the Director of Legal Services, in conjunction with the Strategic Director provided all reasonable measures have been taken to recover the debt.

In future, budget monitoring reports will include an analysis of the latest Departmental/portfolio debt recovery positions.

## 3 Considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, transport and social value considerations.

## 4 Background Papers

Papers are available from the Technical and Accountancy Section, Finance & ICT Division.

## **5 Officer's Recommendation**

That Council approves the revised Financial Regulations and Standing Orders relating to Contracts and that the changes come into force from 1 April 2019.

PETER HANDFORD

Director of Finance & ICT

**Derbyshire County Council**

# **FINANCIAL REGULATIONS**

**To: All Members and Employees**

The Chief Financial Officer has legal responsibilities for the financial administration of the Council's affairs and for determining the procedures and systems (whether electronic or not) to achieve this.

The Director of Legal Services as Monitoring Officer has responsibilities for legal compliance/probity.

Financial Regulations and Procedures apply to all Members and employees and to all transactions.

There are separate regulations under the Derbyshire Scheme for Financing Schools.

Where supplementary rules are made subsequent to these Regulations, these will be published. It has not been possible to foresee every eventuality so, should any doubt arise, you should consult the Chief Financial Officer. The Council Tax payers and citizens will expect everyone involved with the Council's affairs to treat the Council's resources with care and seek to obtain value for money - economy, efficiency and effectiveness - at all times.

The Regulations deal with the control of resources by Strategic Directors in their Departments. The responsibilities of other officers are separately listed throughout the document and supplemented by Scheme of Delegations.

It is important that all employees are familiar with the detail that applies to their daily role. The regulations relating to procurement matters have been amended including changes in thresholds, evaluating for risk, increased requirement for transparency and the use of frameworks. These changes will allow increased flexibility for officers whilst maintaining the focus on delivery of value for money and accountability.

**Barry Lewis**  
**Leader of the Council**

**Simon Spencer**  
**Deputy Leader of the Council**

**Peter Handford**  
**Director of Finance & ICT**  
**(Chief Financial Officer)**

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## **A INTRODUCTION**

### **FINANCIAL REGULATIONS**

- 1 To conduct its business efficiently a local authority needs to ensure that it has sound financial management policies in place and that they are strictly adhered to. Part of this process is the establishment of financial regulations, which set out the financial policies of the Council.
- 2 The County Council has produced this updated set of financial regulations, which reflects best practice and provides a practical source of advice to assist the Council to deliver its services.
- 3 The financial regulations provide clarity about the accountabilities of individuals - Cabinet Members and officers including the Monitoring Officer, the Chief Financial Officer and Strategic Directors. Each of the financial regulations sets out the overarching financial responsibilities.
- 4 Departments should link the financial regulations with other internal regulatory frameworks which form part of the Council's constitution - for example - contract standing orders, schemes of delegation, the role of both Audit and Improvement and Scrutiny Committees and Employee Codes of Conduct, which include specific issues such as hospitality and gifts. Departments may also wish to supplement this handbook with their own more detailed financial procedures, guidance and instructions. Each of these additional publications must be approved by the Chief Financial Officer.

There is a separate version of financial regulations for Schools which is approved by Audit Committee.

- 5 Derbyshire County Council is one of the largest local authorities in England. It serves a population of 764,000 and an area of 255,071 hectares. It provides a diverse range of services to its residents. It works in partnership with 8 district councils, parish and town councils and a number of other organisations.

The Council provides the following services:

- |  |  |
|--|--|
| • learning and development                                       | • public protection                            |
| • social care  | • countryside services                         |
| • strategic planning   | • environmental management                     |
| • economic development   | • registration of births, deaths and marriages |
| • roads and highways   | • coroners                                     |
| • cultural and community including libraries, museums & archives | • emergency planning                           |
| • public transport facilities                                    | • asset management                             |
| • public health  |  |

- 6 The Council's governance structure is laid down in its Constitution. This document contains the:
  - Articles of the Constitution

- Responsibility for Functions
- Rules of Procedure
- Codes and Protocols
- Members' Allowances Scheme
- Management Structure

## **FINANCIAL PROCEDURES**

7 Each section of the financial procedures follows the format set out below;

- why is this important?
  - this sets the context for the financial procedures.
- key controls
  - this explains the key internal controls which set the framework for ensuring financial regulations are operating effectively.
- responsibilities of the Chief Financial Officer and Monitoring Officer.
- responsibilities of Strategic Directors.
  - these last two sections clarify the responsibilities of operational managers in relation to financial management. This is distinct from the role of finance employees. Strategic Directors are, of course, free to delegate functions within their Departments as set out in their Scheme of Delegation, in which case the responsibilities as stated apply to their managers.

## **B STATUS OF FINANCIAL REGULATIONS**

- 1 Financial regulations provide the framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and anyone acting on behalf of the Council. As Financial Regulations are part of the constitution any change must be agreed by Council after being reported to Audit Committee.
- 2 The regulations identify the financial responsibilities of the Council, Cabinet, Audit Committee, Improvement and Scrutiny Committees, the Monitoring Officer, the Chief Financial Officer and Strategic Directors. Cabinet Members and Strategic Directors should maintain a written record where these responsibilities have been delegated to their employees including devolved employees. Where responsibilities have been delegated or devolved to other responsible officers, such as governors, references to the Strategic Director in the regulations should be read as referring to them.
- 3 All Members and Officers 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 all Council resources is legal, properly authorised and provides Value for Money (VfM).
- 4 The Council's Audit Committee is responsible for ensuring a continuous review of the financial regulations and for advising the Cabinet and Council of any additions or changes necessary. The Chief Financial Officer is responsible for reporting, where appropriate, any breaches of the financial regulations to the Council and/or to the Cabinet Members.
- 5 The Council's detailed financial procedures setting out how the regulations will be implemented are contained in the Annexes to the Financial Regulations.
- 6 Strategic Directors are responsible for ensuring that all employees in their Departments are aware of their responsibilities according to the financial regulations and other internal regulatory documents and comply with them.
- 7 The Chief Financial Officer is responsible for issuing advice and guidance to underpin the financial regulations which Members, Officers and others acting on behalf of the Council are required to follow.
- 8 Throughout this document all references to authorisation/signatories apply to both hardcopy and electronic records. A digital signature/authorisation carries no less weight and imposes no less responsibility on the authorising officer than a handwritten signature. Designated authorising officers must ensure that they maintain the security of their personal user identity and password details as these identifiers will be taken as the equivalent of a personal, handwritten signature for the purposes of authorisation.
- 9 Employees are reminded that, under the Code of Conduct for Employees, orders and contracts must be awarded on merit and in accordance with Financial Regulations and Standing Orders in relation to contracts. Breaches of these requirements must be reported to the Assistant Director of Finance

(Audit), and may result in action being taken under the Council's disciplinary procedures.

## **C FINANCIAL REGULATIONS FOR DERBYSHIRE COUNTY COUNCIL**

### **C(1) FINANCIAL REGULATION 1 - FINANCIAL MANAGEMENT & CONTROL**

#### **Overview of financial accountabilities in relation to:**

##### ***The Council***

- 1 The Council is responsible for adopting the Council's Constitution and Code of Conduct for Employees and for determining the budget and policy framework within which the Cabinet operates. It is also responsible for setting and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in a written Constitution. Together with the Cabinet, the Council is responsible for monitoring compliance with policies and Cabinet decisions.

##### ***The Cabinet***

- 2 The Cabinet is responsible for proposing to the Council the policy framework and budget, for delivering services and discharging functions in accordance with the policy framework and budget.
- 3 The extent to which decisions of the Cabinet can be delegated is set out within the body of these regulations. Joint Committees or responsible Cabinet Members have authority to decide certain matters.
- 4 Together with the Council, the Cabinet is responsible for monitoring compliance with policies, Cabinet decisions and the framework of accountability and control.

##### ***Committees***

##### ***Improvement and Scrutiny Committees***

- 5 The Council has Improvement and Scrutiny Committees whose role is to scrutinise Cabinet or individual decisions before or after they have been implemented. These Committees are also responsible for making recommendations on future policy options and reviewing the general policy and service delivery of the Council.
- 6 The Improvement and Scrutiny Committees have a right to be involved in the budgetary process of the Council.

##### ***Audit Committee***

- 7 The Council has an Audit Committee, part of whose role is to independently contribute to the Council's overall process for ensuring that effective internal control systems are adequately maintained.

### ***Audit Matters***

- 8 The Council's Auditors, both Internal and External act in an independent advisory capacity and report to the Audit Committee, Cabinet and Council. The Audit Committee have rights of access to obtain all the information they consider necessary and to consult directly with internal and external auditors. The Audit Committee is responsible for reviewing the external auditor's statutory report and the Assistant Director of Finance (Audit)'s annual report.

### ***Standards Committee***

- 9 The Standards Committee is responsible for promoting and maintaining high standards of conduct amongst Councillors. In particular, it has responsibility for advising on the adoption of the Code of Conduct for Employees, for its operation and its updating.

### ***Other Committees***

- 10 Regulatory functions such as planning and licensing together with the administration of the County Council's Pensions Fund are not the responsibility of the Cabinet and are exercised through committees which report to the Council.

### ***Officers***

- 11 It is the duty of all Officers of the Council to serve all Members of the Council equally.

### ***The Statutory Officers***

### ***Head of Paid Service***

- 12 The Head of Paid Service is responsible for:-
- (a) The manner in which the discharge by the authority of their different functions is co-ordinated;
  - (b) The number and grades of staff required by the authority for the discharge of their functions;
  - (c) The organisation of the authority's staff; and
  - (d) The appointment and proper management of the authority's staff

### ***Monitoring Officer***

- 13 The Director of Legal Services, in the capacity of Monitoring Officer, is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any breaches of the law to the Council and the Cabinet.

### ***Scrutiny Officer***

- 14 The Scrutiny Officer is responsible for administering the Council's Improvement and Scrutiny Committees and providing support to these Committees and the Members of them. In addition, the Scrutiny Officer provides support and guidance to:

- (a) Members of the Council,
- (b) Members of the Executive of the Council, and
- (c) Officers of the Council,

in relation to the functions of the Council's Improvement and Scrutiny Committees.

### ***The Director of Finance & ICT***

- 15 The Director of Finance & ICT is the Chief Financial Officer of the Council, and has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from the:

- **Local Government Act 1972 - Section 115 Accountability of Officers**

Every officer employed by a local authority, whether under this Act or any other enactment, shall at such times during the continuance of his office or within three months after ceasing to hold it, and in such a manner as the local authority direct, make out and deliver to the Council, or in accordance with their directions, a true account in writing of all money and property committed to his charge, and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connection with this office, showing the amount due from or to each.

Every such officer shall pay all money due from him to the proper officer of the local authority or in accordance with their directions.

- **Local Government Finance Act 1988 - Section 114 - Functions of Responsible Officers as regards reports**

The Chief Financial Officer is also the responsible officer under Section 114 of the Local Government Finance Act 1988 for reporting to Council if the Council:

-

- (a) has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful;
- (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council, or
- (c) is about to enter an item of account the entry of which is unlawful.

In addition, the Chief Financial Officer is under a duty to report to Council if it appears to him that the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

- **Local Government Act 1972 - Section 117 Disclosure by Officers of Interest in Contracts**

Employees should be aware of the provisions of Section 117(1) of the Local Government Act 1972, which provides that “if it comes to the knowledge of an officer employed whether under this Act or any other enactment by a local authority that a contract in which he/she has any pecuniary interest whether direct or indirect (not being a contract to which he is himself is a party), has been or is proposed to be entered into by the authority or any committee thereof, he/she shall as soon as practicable give notice in writing to the authority of the fact that is interested therein.”

An indirect pecuniary interest for these purposes is as follows: -

- (a) if the officer or any nominee of the officer is a member of a Company or other body with which the contract was or is proposed to be made,
- (b) if the officer is a partner or is in the employment of a person with whom the contract is or is proposed to be made,
- (c) in the case of married persons living together the interest of one spouse, if known to the other, is deemed to be the interest of the other spouse.

**Section 117(2)** states that “an officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration”.

Any officer who has direct or indirect interest in any contract, or who is offered any fee or reward shall write to the Monitoring Officer immediately. Any person who fails to comply with Section 117(1) and/or (2) may render themselves liable to a fine of £1,000.

- **Local Government Act 1972 - Section 151**

Under Section 151 “Every local authority shall make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers has responsibility for the administration of those affairs”.

The County Council have appointed the Chief Financial Officer as the responsible officer.

**No item having financial consequences shall be placed on a Council meeting agenda without obtaining the Chief Financial Officer's financial assessment. Any report containing new proposals shall include an independent financial assessment by the Chief Financial Officer.**



- **Local Government Act 2003**

The Local Government Act 2003 requires that the Chief Financial Officer has:

- (a) a statutory duty to advise the Council on Cabinet proposals in accordance with their responsibilities under Section 151 of the Local Government Act 1972 and the Local Government Act 2003;
- (b) responsibilities in relation to the level of the Council's reserves and protocols for their use;
- (c) responsibilities to take into account matters as specified in CIPFA's Prudential Code for Capital Finance in Local Authorities (2003);
- (d) robustness of estimates included in the budget and the adequacy of the reserves for which the budget provides.

The annual investment strategy is an annual statement prepared in accordance with the Local Government Act 2003. Section 15(1), states that all Authorities must "have regard to guidance on investments issued by the Secretary of State", when investing surplus cash.

- 16 The Chief Financial Officer will support these financial regulations by the issue of more detailed instructions to Strategic Directors from time to time.

***Responsibilities of Strategic Directors***

- 17 All Strategic Directors shall be responsible for ensuring that all employees of their Departments comply with financial regulations and any other financial instructions the Chief Financial Officer may issue from time to time. They also have delegated powers to take such actions deemed necessary and expedient in matters requiring urgent consideration and because of the timescale involved, or the need to safeguard the interests of the Council, cannot be dealt with by submission to the next Council or Cabinet Member Meeting.
- 18 They shall also ensure that:
  - (a) existing and new employees are informed of their responsibilities under financial regulations and are familiar with these documents,
  - (b) all financial regulations or contracts and award procedures are followed by officers in their Department,
  - (c) relevant records are maintained and retained,
  - (d) particular care is necessary to ensure that Officers whose responsibilities extend to routine aspects of budgeting, record keeping, ordering, income and payments are fully aware of the detailed requirements of the relevant Appendices to these regulations.

- 19 To consult the Chief Financial Officer on any matter which is liable to materially affect the finances of the Council before any provisional or other commitment is incurred.
- 20 To be responsible for securing VfM in relation to their activities and for achieving financial performance targets.

### ***The Decision Making Process***

- 21 The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant Officers before taking a decision within his/her delegated authority. In doing so he/she must take account of advice as to legal and financial liabilities and risk management issues which may arise from the decision.
- 22 The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. He/she must also ensure that Council Members are aware of decisions made by the Cabinet and of relevant decisions made by Officers under the terms of any specifically delegated Cabinet responsibility.
- 23 The Monitoring Officer is responsible for advising the Council, Cabinet and Officers regarding who has authority within the Council to take a particular decision.

### ***Key Decisions***

**These decisions are subject to the access to information requirements for open government. A key decision is defined as a decision that affects two or more electoral wards or saves/costs more than £500,000.**

- 24 The Monitoring Officer and Chief Financial Officer, in consultation with the Head of Paid Service, are responsible for advising the Cabinet or Council whether a decision is likely to be considered contrary to, or not wholly in accordance with, the policy framework or budget. In this context “contrary to the budget” may be as a result of:
  - (a) initiating a new policy,
  - (b) committing expenditure in future years to above the budget level.
- 25 It is ultimately the responsibility of Strategic Directors to consult with the Chief Financial Officer on any matter which is liable to materially affect the Council’s finances before any commitments are incurred. The Chief Financial Officer has a legal duty to provide financial advice to the Council. Strategic Directors should not, therefore, appoint financial consultants or outside advisers without consulting the Chief Financial Officer.

### ***Virement***

- 26 The Council is responsible for agreeing procedures for virements (transfer of funds between budgets).

- 27 Strategic Directors are responsible for agreeing in-year virements within delegated limits, as set out in Appendix 1, paragraph 2(b).

***Treatment of year-end balances***

- 28 Cabinet is responsible for agreeing procedures for carrying forward under or overspendings on budget headings.

## **C(2) FINANCIAL REGULATION 2 - FINANCIAL PLANNING**

### **Introduction**

- 1 The Council is responsible for approving the following, which will be proposed by the Cabinet:

- the policy framework,
- the Council Plan,
- the Revenue Budget and Five Year Financial Plan,
- the Capital Programme and Treasury Management Strategy.

The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies.

- 3 The Council is also responsible for determining when a decision will be deemed contrary to the budget and should therefore be referred to the Council by the Chief Financial Officer and/or Monitoring Officer.
- 4 The Cabinet is responsible for taking in year decisions on resources and priorities in order to deliver the budget within the financial limits set by the Council.

### **Preparation of the Council Plan**

- 5 The Corporate Management Team, is responsible for proposing the Council Plan to the Cabinet for consideration before its submission to Council for approval.

## **BUDGETING**

### **Budget guidelines**

- 6 The Chief Financial Officer will issue guidelines on budget preparations to Members and Strategic Directors in accordance with Council and Cabinet requirements. The guidelines will take account of:
- legal and consultation requirements,
  - medium term planning prospects,
  - available resources,
  - spending pressures,
  - relevant government guidelines,
  - cross-cutting issues (where relevant).

## **Budget preparation**

- 7 The Chief Financial Officer is responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Cabinet before 8 February, and subsequent submission to the Council. The Council may amend the budget, or ask the Cabinet to reconsider it before approving it. The budget must, however, be approved and precepts notified to billing authorities prior to 1 March in accordance with the Local Government Act 1992.
- 8 The Chief Financial Officer is responsible for preparing a report in accordance with the Local Government Act 2003 which the Council must consider when it is making its statutory calculations required to determine its precept. The report must deal with the robustness of the estimates included in the budget and the adequacy of reserves for which the budget provides. The Ministry of Housing, Communities and Local Government advises that the professional advice of the Chief Finance Officer is required on these two questions, and that they are connected with matters of risk and uncertainty.
- 9 The Cabinet is responsible for issuing guidance on cash limits and the general content of the budget in consultation with the Chief Financial Officer as soon as possible following approval by the Council.
- 10 It is the responsibility of Strategic Directors to ensure that annual revenue estimates reflecting agreed service plans and including all necessary resource plans and financial estimates are prepared in consultation with the Chief Financial Officer and are reported to the Cabinet.

## **Preparation of the Capital Programme and Treasury Management Strategy**

- 11 The Chief Financial Officer, in consultation with the Corporate Management Team, is responsible for ensuring that a capital programme is prepared on an annual basis in accordance with the requirements of CIPFA's Prudential Code for Capital Finance in Local Authorities (2017) for consideration by the Cabinet, before submission to the Council.

### **C(3) FINANCIAL REGULATION 3 - CONTROL OF RESOURCES INCLUDING EMPLOYEES**

#### **Internal control**

- 1 Internal control refers to the system of controls devised by management to help ensure the Council's objectives are achieved in a manner which promotes effective, efficient and economical use of resources and that the Council's assets and interests are safeguarded.
- 2 The Audit Committee is responsible for reporting to Cabinet and Council on matters arising from its review of internal control and governance and the Annual Governance Statement.
- 3 It is the responsibility of the Strategic Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve effectiveness, efficiency and economy and for achieving their financial performance targets.

#### **Employees**

- 4 The Head of Paid Service is responsible for providing overall management of employees. He/she is also responsible for ensuring that there is proper use of the job evaluation or other agreed systems for determining the grade and remuneration of a job.
- 5 Strategic Directors are responsible for controlling total employee numbers by:
  - adjusting the employee numbers to that which can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs and in line with the Council's HR Strategy.
  - the proper use of appointment procedures as defined in the Recruitment and Selection Guidelines.

#### **Budget monitoring**

- 6 The Chief Financial Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He/she must monitor the control of income and expenditure against budget allocation and report to the Cabinet on variances in line with the requirements of the budget monitoring policy.
- 7 It is the responsibility of Strategic Directors to control income and expenditure within their area and to monitor performance and provide information to the Chief Financial Officer to ensure reporting is in line with the budget monitoring policy. They should also take any action necessary to avoid exceeding their financial allocation.

- 8 Meetings between the Chief Financial Officer and Strategic Directors are held monthly, to discuss the projected outturn, in accordance with the Budget Monitoring Policy.

### **Register of Members' interests**

- 9 The Monitoring Officer is responsible for ensuring that the procedures agreed by Council for the registration of Members' interests comply with statutory requirements.

### **Risk Management - Code of Audit Practice Requirements**

- 10 The Cabinet is jointly responsible for approving the Council's Risk Management Policy Statement (after receiving a report from the Audit Committee on risk management, internal control and governance and the Annual Governance Statement) and for effecting proper insurance.
- 11 The Council's Audit Committee considers, at each meeting, a report on the Council's Risk Register and is charged to consider any significant changes in risk and with monitoring the effectiveness with which key risks identified are managed.
- 12 The Chief Financial Officer is responsible for preparing the Council's Risk Management Policy Statement, promoting it throughout the Council and for advising the Cabinet on proper insurance cover.
- 13 The Chief Financial Officer shall be responsible for effecting all necessary insurance within the policy determined from time to time by the Council. Strategic Directors will be responsible for notifying to him/her changes in any insurable risks and will submit claims in accordance with the approved arrangements.
- 14 Strategic Directors shall consult the Chief Financial Officer and Director of Legal Services before giving any indemnity on behalf of the Council.
- 15 Strategic Directors shall notify the Chief Financial Officer immediately of any loss, liability or damage, which may lead to a claim against the Council.

### **Security**

- 16 Strategic Directors should ensure that appropriate records, whether held in a manual or electronic format, are properly maintained and securely held. They are also responsible for ensuring that all business critical systems are identified, that systems so identified are adequately documented and that sound arrangements for the security and continuity of service in the event of disaster are in place and have been tested in advance where practicable.

## **C(4) FINANCIAL REGULATION 4 – SYSTEMS AND PROCEDURES**

### **Decision making procedures**

- 1 The Council is responsible for approving procedures for reporting its decision-making processes and the financial information associated with them. The Director of Legal Services should provide a system for the recording of the Council's decisions and for the secure storage of media used to record those decisions.

### **Income and expenditure**

- 2 It is the responsibility of Strategic Directors to ensure that a proper scheme of delegation has been established within their Departments, operating effectively and reviewed and updated annually to a standard determined by the Chief Financial Officer. It should identify employees authorised to act on behalf of the Cabinet, Cabinet Member or the Strategic Director, in respect of payments, income collection, for placing orders and the award of contracts, together with the limits of their authority. The Council is responsible for approving procedures for writing off debts as part of its overall control framework of accountability and control.

### **Financial systems and procedures**

- 3 The Chief Financial Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any proposed changes by Strategic Directors to existing financial and/or control systems or the establishment of new systems must be reported to and considered by the Assistant Director of Finance (Audit) who will consider the potential impact on the Internal Control framework and report to the Chief Financial Officer, raising any concerns as appropriate. The Chief Financial Officer will then formally consider the proposed changes. No changes may be actioned without the formal approval of the Chief Financial Officer.
- 4 Strategic Directors are responsible for the proper and effective operation of financial processes and control systems within their own Departments.
- 5 Any changes to financial instructions and procedure notes by Strategic Directors, to meet their own specific service needs, should be agreed by the Chief Financial Officer who will seek Cabinet approval where appropriate.
- 6 Strategic Directors must ensure that they have sufficient, appropriately qualified employees and other resources to meet their responsibilities and must consult the Chief Financial Officer to ensure that such employees have received appropriate financial training.

### **Data protection**

- 7 Strategic Directors should ensure that, where appropriate, classes of information held on computer and other systems are notified to the Information Commissioner in accordance with Data Protection legislation and that employees are aware of their responsibilities under this legislation and the



Freedom of Information Act 2000 and The Environmental Information Regulations 2004.

## **C(5) FINANCIAL REGULATION 5 – EXTERNAL ARRANGEMENTS**

- 1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders.
- 2 The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs. It is responsible for ensuring that the contractual arrangements for any work for third parties or external bodies comply with Corporate Strategy.
- 3 The Council/Cabinet Members will decide on Member representation and the Corporate Management Team will decide on Officer representation of the Council on partnership and external bodies, as required by statute or the Council.
- 4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial affairs and governance in partnerships that apply throughout the Council.
- 5 The Chief Financial Officer must specify the accounting and auditing arrangements to be adopted relating to partnerships and joint ventures and trading relationships and consider the overall corporate governance arrangements when arranging contracts with external bodies. Auditing arrangements should include, as a minimum, guaranteed rights of access for the Council's auditors at all times to all documents, records, employees and premises which relate to, or are provided by, the Council's contributions to the partnership, joint venture or trading relationship. He/she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 6 Strategic Directors are responsible for:
  - ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies and third parties,
  - maintaining a register of all contracts/partnership agreements entered into with external bodies in accordance with procedures approved by the Director of Legal Services which must include details of :
    - the aims and objectives of the contract/partnership;
    - its approved duration;
    - the Council's commitment in terms of finance and other resources;
    - the framework by which the performance of the contract/partnership is to be monitored;

- exit strategy on completion or termination of the contract/partnership ensuring that before entering into agreement with external bodies, a risk management appraisal has been prepared;
- ensuring that such agreements and arrangements do not impact adversely upon the services provided for the Council;
- ensuring that all agreements and arrangements are properly documented;
- providing appropriate information to the Chief Financial Officer to enable a note to be entered into the Council's Statement of Accounts;
- ensuring that all Council employees designated/seconded to work on the contract/partnership are aware that, throughout such work, they continue to be bound by the policies, contractual requirements and financial regulations of the Council and remain accountable to the Council for their actions.

## **ANNEX 1: FINANCIAL MANAGEMENT AND CONTROL**

- 1 Financial management standards
- 2 Managing and controlling spending
  - (a) revenue budget
  - (b) scheme of virement
  - (c) treatment of year end balances
- 3 Accounting policies
- 4 Accounting records and returns
- 5 Format of the accounts

## **1 FINANCIAL MANAGEMENT STANDARDS**

### **Objectives**

- 1 All Members and Officers have a duty to abide by the highest standards of probity in dealing with financial issues. This is achieved 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.

### ***Responsibilities of Chief Financial Officer***

- 2 To ensure the proper administration of the Council's financial affairs.
- 3 To set financial standards, and to monitor their compliance.
- 4 To ensure proper professional practices are adhered to, and to act as head of profession in relation to the standards, performance and development of employees engaged in financial work throughout the Council.
- 5 To advise on the key strategic controls necessary to secure sound financial management.
- 6 To ensure that financial information is available to enable accurate and timely reporting of comparisons of national and local financial performance indicators.

### ***Responsibilities of Strategic Directors***

- 7 To promote and ensure adherence to the financial management standards set by the Chief Financial Officer in their Departments.
- 8 To promote and ensure adherence to proper financial practices in relation to the standards, performance and development of employees in their Departments.

## **2 MANAGING AND CONTROLLING INCOME AND EXPENDITURE**

### **A Revenue Budget**

#### **Objectives**

- a.1 Budget management ensures that resources allocated by Members are used for their intended purposes and that these resources are properly accounted for. Budgetary control is a continuous process enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism to call to account managers responsible for defined elements of the budget.
- a.2 By identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit, approved in setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own income and expenditure within the cash limited budget allocated to it.

#### **Key controls**

- a.3 The key controls for managing and controlling the revenue budget are:
  - (i) budget holders will be responsible for the income and expenditure on budget heads for which they have been assigned responsibility;
  - (ii) all budgeted income and expenditure is allocated to a named budget manager;
  - (iii) budget managers accept accountability for their budgets and the level of service to be delivered;
  - (iv) budget managers follow an approved authorisation process for all expenditure;
  - (v) income and expenditure is properly recorded and accounted for;
  - (vi) performance levels/levels of service are monitored in conjunction with the budget and necessary action taken to align service outputs and the budget.

#### **Responsibilities of Chief Financial Officer**

- a.4 To establish an appropriate framework of budgetary management and control which ensures that:
  - (i) budget management is exercised within annual cash limits unless the Council agrees otherwise;

- (ii) each Strategic Director has available timely information on income and expenditure on each budget heading, to enable managers to fulfil their budgetary responsibilities;
  - (iii) all officers responsible for committing expenditure and generating or collecting income must comply with corporate guidance and financial regulations and standing orders;
  - (iv) each budget head has a single named manager, determined by the Strategic Director. Budget responsibility should be aligned as closely as possible to the decision-making which commits expenditure;
  - (v) significant variances from approved budgets are promptly investigated and the reasons for such variances are pursued with the responsible managers.
- a.5 To administer and ensure adherence to the Council's scheme of virement.
- a.6 To submit reports to the Cabinet and to Council, in consultation with the Strategic Director, where a Strategic Director is unable to balance expenditure and resources within existing approved budgets under his or her control.
- a.7 To prepare and submit reports on the Council's projected income and expenditure compared with the budget.

### ***Responsibilities of Strategic Directors***

- a.8 To maintain budgetary control within the Department, in adherence to the principles in 2a.4 and to ensure that all income and expenditure is promptly and properly recorded and accounted for.
- a.9 To ensure that a single accountable budget officer is identified for each item of income and expenditure under the control of the Strategic Director.
- a.10 To ensure that spending remains within the service overall cash limit, and is not overspent, by monitoring the budget.
- a.11 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the service plan and that any necessary action is taken.
- a.12 To prepare and submit to the Cabinet or Cabinet Member, where required, reports on the service's projected income and expenditure compared with its budget, in consultation with the Chief Financial Officer in accordance with the schedule in the Council's Budget Monitoring Policy

- a.13 To ensure prior approval by the Council for new proposals\* not included in the agreed budget or service plan, which:
- (i) create material financial commitments in future years,
  - (ii) initiate new policy or cease existing policies,
  - (iii) materially extend or reduce the Council's services,
  - (iv) create or identify material new sources of income,
  - (v) where services are to be financed from government grant, sales of goods and services, or other external services, which are time limited, the proposal must contain an exit strategy that does not rely on future finance from Council Tax.
- a.14 To ensure compliance with the Council's scheme of virement.
- a.15 To consult with the relevant Strategic Director where it appears that a budget proposal, including a virement proposal may impact materially on another service or Strategic Director's level of activity.
- a.16 To ensure that the departmental forward procurement plan, detailing all procurement requirements above £50,000 for the forthcoming 24 months is included as part of the departmental service plan and; where such requirements cannot be identified in the service plan, to seek approval of Cabinet or Cabinet Member (as appropriate) prior to commencing the procurement process.

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\* A report on new proposals should explain the full financial implications, after consultation with the Chief Financial Officer. Unless the Council has agreed otherwise, Strategic Directors must plan to contain the financial implications of such proposals within their cash limit. The proposal must be in line with the requirements issued by the Chief Financial Officer.



## **2 MANAGING AND CONTROLLING INCOME AND EXPENDITURE**

### **B Scheme of Virement**

- b.1 The Council's scheme of virement is monitored by the Chief Financial Officer to ensure compliance with guidelines set by Council. Any variation from this scheme requires the approval of Council.
- b.2 The Council approves annual budgets for each Department and Strategic Directors and the budget holders are therefore authorised to incur expenditure in accordance with those estimates. The rules below cover virement, which is switching income and expenditure between Departments.
- b.3 The scheme of virement is intended to enable Strategic Directors and their employees to manage budgets with a degree of flexibility within the overall policy framework determined by the Council and, therefore, to optimise the use of resources. Strategic Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. In particular, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Strategic Directors must plan to fund such commitments from within their own budgets.

#### ***Responsibilities of Chief Financial Officer***

- b.4 To prepare a joint report, with relevant Strategic Directors, to the Cabinet where any virements greater than £100,000 per annum are proposed between Departments.

#### ***Responsibilities of Strategic Directors***

- b.5 A Strategic Director may exercise virements on budgets under his/her control within their Department. Strategic Directors are able to carry out virements within their own budgets as long as it does not involve the following:
  - (i) a new policy or policy change;
  - (ii) does not result in an increase in commitment in future years which cannot be met from within existing budgets;
  - (iii) does not compromise the policy/service objectives in the approved strategic plan (and related service plans).

Any virements not meeting these criteria shall be subject to approval by Cabinet.

- b.6 Amounts greater than £100,000 per annum resulting in a virement of funds between Departments requires the approval of the Cabinet, following a joint report of the Chief Financial Officer and the Strategic Director which must specify the proposed expenditure, the source of funding and must explain the implications in the current and future financial years.

- b.7 No virement relating to a specific financial year should be made after accounting period 14 of that year.
- b.8 Where an approved budget heading is designated by the Chief Financial Officer as a lump sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that the amount is used in accordance with the purposes for which it has been established.
- b.9 Strategic Directors must report all interdepartmental virements to the Chief Financial Officer as part of the period end assurance framework.

## **2 MANAGING AND CONTROLLING INCOME AND EXPENDITURE**

### **C Treatment of end of year balances**

#### **Objectives**

- c.1 The Chief Financial Officer makes proposals to Cabinet on the treatment of balances.
- c.2 The rules below cover arrangements for the transfer of resources between accounting years, i.e. a 'carry forward'.

#### **Key controls**

- c.3 Appropriate accounting procedures are in place to ensure that carried forward totals are correct.

#### **Responsibilities of Chief Financial Officer**

- c.4 To administer the scheme of 'carry forward' within accounting policies and any other guidelines set by the Council.
- c.5 To report the extent of overspends and underspends on service estimates carried forward to the Cabinet.

#### **Responsibilities of Strategic Directors**

- c.6 The Departmental outturn position will be reported to Cabinet after the end of the financial year along with the variances on the budgets that are deemed to be controllable. The Chief Financial Officer will determine which budgets are classed as controllable and non-controllable.

Over/underspends against controllable budgets can only be carried forward with the approval of Cabinet. Requests to carry forward and/or utilise previous years' underspends will normally be through the annual outturn report.

- c.7 Each school's surplus shall be carried forward to support the future expenditure of the school concerned. Any deficit will also be carried forward for the individual school to recover, if necessary, via a licensed deficit. Full details of the arrangements are contained within the Derbyshire Scheme for Financing Schools.

### **3 ACCOUNTING POLICIES**

#### **Objectives**

- 1 The Chief Financial Officer is responsible for the preparation of the Council's Statement of Accounts, in the format required by the CIPFA Code of Practice on Local Authority Accounting in the UK, for the financial year ending 31 March. The Audit Committee is responsible for reporting to Cabinet and Council on matters arising from its review of the accounting policies and Annual Accounts of the Council, and will play a pro-active role in promoting discussion on both the content of the Statement of Accounts and ongoing financial statements.

#### **Key controls**

- 2 The key controls for accounting policies are:
  - (a) suitable accounting policies are selected and applied consistently;
  - (b) judgements are made and estimates prepared which are reasonable and prudent;
  - (c) statutory and other professional requirements are observed to maintain proper accounting records;
  - (d) all reasonable steps have been taken for the prevention and detection of fraud and other irregularities.

#### **Responsibilities of Chief Financial Officer**

- 3 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies will be set out in the Statement of Accounts which is prepared at 31 March each year, and will cover such items as:
  - (a) the basis on which debtors and creditors at year end are included in the accounts,
  - (b) details on substantial provisions and reserves, and contingent liabilities,
  - (c) fixed assets,
  - (d) depreciation,
  - (e) capital charges,
  - (f) debt redemption,
  - (g) work in progress,
  - (h) stocks and stores,
  - (i) deferred charges,
  - (j) government grants,
  - (k) leasing,
  - (l) pensions,
  - (m) allocation of central support services.
  - (n) capital receipts.
- 4 To identify any significant changes in accounting policies, and to ensure that they are reported to, and approved by, the Audit Committee.

### ***Responsibilities of Strategic Directors***

- 5 To adhere to the accounting policies approved by the Chief Financial Officer.

## **4 ACCOUNTING RECORDS AND RETURNS**

### **Objectives**

- 1 Proper accounting records are one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its Statement of Accounts to present fairly its operations during the year. These are subject to external audit. This provides assurance that the accounts are properly prepared and proper accounting practices have been followed.

### **Key controls**

- 2 The key controls for accounting records and returns are:
  - (a) all Cabinet Members, finance employees and budget managers operate within the required accounting standards of the Council;
  - (b) all the Council's transactions, material commitments, and contracts and other essential accounting information have been recorded completely, accurately and on a timely basis;
  - (c) procedures are in place to enable accounting records to be reconstituted in the event of failure;
  - (d) balances and reconciliation procedures are carried out to ensure transactions are correct;
  - (e) the duty imposed on the Council by the Accounts and Audit Regulations to maintain an adequate and effective audit of its accounting records and its system of internal control.

### **Responsibilities of Chief Financial Officer**

- 3 To determine all accounting procedures and the form of financial records for the Council.
- 4 To compile all accounts and accounting records, or ensure that they are compiled under his/her direction.
- 5 To comply with the following principles when allocating accounting duties:
  - (a) separating the duties of providing information about sums due to or from the Council 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 shall not themselves be engaged in these transactions.
- 6 To prepare, certify and publish the pre-audit statement of accounts of the Council for each financial year, in accordance with the statutory timetable, to make any necessary changes as a result of the external audit and for the Audit

Committee to then approve the post-audit Statement of Accounts before the statutory deadline.

- 7 To ensure that retention periods for financial records are specified and promulgated throughout the Council. The periods for which documents are to be retained are separately specified.

***Responsibilities of Strategic Directors***

- 8 To consult with and obtain the approval of the Chief Financial Officer before making any changes to the format of the accounting records and procedures.
- 9 To comply with the principles outlined in paragraph 5 when allocating accounting duties.
- 10 To maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements.
- 11 To supply the information required to enable the Statement of Accounts to be completed, in accordance with guidelines issued by the Chief Financial Officer.

## **5 FORMAT OF THE ACCOUNTS**

### **Objectives**

- 1 The format of the budget will determine the level of detail on which financial control and management will be exercised.

### ***Key controls***

- 2 The key controls for the budget format are:
  - (a) the format complies with all legal requirements;
  - (b) the format complies with CIPFA's Service Reporting Code of Practice.

### ***Responsibilities of Chief Financial Officer***

- 3 To advise the Audit Committee on the format of the budget.

### ***Responsibilities of Strategic Directors***

- 4 To comply with accounting guidance provided by the Chief Financial Officer.



## **ANNEX 2: FINANCIAL PLANNING**

- 1 Financial Strategy
- 2 Budgeting
  - (a) resource allocation
  - (b) capital programmes
  - (c) preparing revenue budgets in accordance with the Council's financial strategy
- 3 Use of reserves

## **1 FINANCIAL STRATEGY**

### **Objectives**

- 1 The aim of the Financial Strategy is to set out the framework for the financial operation of the Council in support of its strategic and policy objectives as set out in the Council Plan. The Financial Strategy serves to drive (in conjunction with the Council Plan and Service Plans) the Medium Term Financial Plan, Capital Strategy, Capital Programme and Annual Revenue Budget. The aim of the Financial Strategy is to maximise, within existing policies, the resources available to the Council and to assist in the continuous improvement of the provision of cost effective and affordable service delivery.

### **Key Controls**

- 2 The key controls for the Financial Strategy are:
  - (a) to ensure it is driven by the Council Plan;
  - (b) to ensure it is reviewed annually;
  - (c) to ensure the Financial Strategy drives the Medium Term Financial Plan, Capital Programme and Annual Revenue Budget.

### **Responsibilities of Chief Financial Officer**

- (a) to produce and update annually the Financial Strategy for approval by Cabinet;
- (b) to ensure Financial Regulations, the Medium Term Financial Plan, Capital Programme and Annual Revenue Budget together with any other financial policies, plans and guidance are consistent with the Financial Strategy.

### **Responsibilities of Strategic Directors**

- (a) to contribute to the development of the Financial Strategy;
- (b) to ensure all financial policies, plans and guidance within Departments are consistent with the Financial Strategy.

## **2 BUDGETING**

### **A Resource allocation**

#### **Objectives**

- a.1 A mismatch often exists between those resources available and those required. A common scenario is that the available resources are not adequate to fulfil needs/desires. It is, therefore, imperative that resource allocation is carefully prioritised and the resources available are fairly allocated in order to fulfil all legal responsibilities. Resources will include employees, money, equipment (including ICT facilities, vehicles and plant) goods, materials, land and accommodation.

#### **Key controls**

- a.2 The key controls for resource allocation are:
- (a) resources are acquired using an approved authorisation process;
  - (b) resources are only used for the purpose intended by the Council, to achieve the approved policies and objectives, and are properly accounted for;
  - (c) resources are secured for use when required;
  - (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

#### **Responsibilities of Chief Financial Officer**

- a.3 To advise on methods available for the funding of expenditure, such as grants from central government and other income and borrowing requirements.
- a.4 To assist in the allocation of income and expenditure to managers.

#### **Responsibilities of Strategic Directors**

- a.5 To work within budget limits and to utilise resources allocated and further allocate resources in the most effective, efficient and economical way.
- a.6 To identify opportunities to minimise or eliminate resource requirement or consumption without a detrimental effect on service delivery, such as efficiencies, partnerships and collaborations, applying fees and charges or other commercial arrangements.

## **BUDGETING**

### **B Capital programmes**

#### **Objectives**

- b.1 Capital expenditure involves acquiring or enhancing assets with a long term value, such as land, buildings and major items of plant and equipment or vehicles. Capital assets shape the way services are delivered for the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- b.2 The Government places controls on the financing capacity of the Council. This means that capital expenditure should form part of a programme, should be carefully prioritised in order to comply with the Council Plan, maximise the benefit of scarce resources and comply with CIPFA's Prudential Code for Capital Finance in Local Authorities (2017).

#### **Key controls**

- b.3 The key controls for capital programmes are:
  - (a) specific approval by the Council of its Capital Strategy and Infrastructure Plan;
  - (b) the preparation of a project and estimates, including associated revenue expenditure, for appraisal and recommendation by the Capital Strategy Group and approval by the Cabinet;
  - (c) proposals for the purchase, lease of, or improvements and alterations to buildings must be approved by the Director of Property.

#### **Responsibilities of Chief Financial Officer**

- b.4 To prepare the Capital Strategy jointly with Corporate Management Team who will report the Strategy to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the Council.

The Chief Financial Officer, in conjunction with Strategic Directors, will compile the annual Capital Programme. This will contain schemes\* (which are designed to meet a particular need or issue) and individual projects. The programme will be approved by Council in February each year. For the purposes of these regulations an individual scheme will be classed as a single project.

- b.5 To prepare and submit reports to Cabinet/Council on the projected expenditure and resources compared with the approved estimates on a regular basis.
- b.6 To issue guidance concerning capital schemes and controls for example on project appraisal techniques e.g. the Council's project appraisal and management toolkit. The definition of 'capital' will be determined by the Chief

Financial Officer, having regard to Government regulations and accounting requirements.

### ***Responsibilities of Strategic Directors***

- b.7 To comply with guidance concerning capital schemes and projects and controls issued by the Chief Financial Officer.
- b.8 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Chief Financial Officer currently contained in the Council's project appraisal and management toolkit.

For schemes, an initial report will be taken to Cabinet to commit the scheme budget. Any balance remaining to be allocated at a later date will be dealt with under b.10.

### **Overspends**

- b.9 Where there are overspends on a project, virement can take place utilising the capital resources under the control of the Strategic Director as follows:
  - up to £250,000 by the Strategic Director
  - from £250,000 to £500,000 to be approved by Cabinet Member
  - over £500,000, to be approved by Cabinet.

Where there may be the need to vire from a project that is funded by borrowing, this must be agreed with the Chief Financial Officer.

Any overspend that needs to be funded from an increase in borrowing will require the approval of Cabinet.

### **New Projects not already approved in the Capital Programme**

- b.10 Any subsequent projects can be approved as follows:
  - up to £250,000 by the Strategic Director
  - from £250,000 to £500,000 to be approved by Cabinet Member
  - over £500,000, to be approved by Cabinet.

Cabinet approval is required for any new Project to be funded from borrowing.

### **Corporate Contingency Funds**

- b.11 The corporate contingency budget is funded by borrowing and is under the control of the Chief Financial Officer

The Chief Financial Officer will authorise the use of contingency funds up to £250,000. Over £250,000 will require Cabinet approval.

- b.12 The use of capital receipts can only be used with the approval of the Chief Financial Officer.

- b.13 To nominate an officer who will act as sponsor for the project and an officer who will be responsible for the financial management of the project.

Where a department requests a feasibility study, then the cost of this will initially be borne by the department. If this then becomes a capital project, then the costs of the feasibility can be charged to the project

- b.14 To assist in the preparation of regular reports of the estimated final cost of schemes in line with the timetable set out by the Chief Financial Officer.
- b.15 To ensure that adequate records are maintained in respect of all capital contracts.
- b.16 To ensure that they do not enter into credit arrangements, such as borrowing or leasing arrangements, without the prior approval of the Chief Financial Officer and, if applicable, approval of the scheme through the Capital Programme.

\* Examples of a scheme are Basic Need, Local Transport Plan, Schools Access initiative, Disabled Adaptations.  
The Chief Financial Officer will determine which funding streams can be considered to be classed as a scheme for the purposes of these regulations.

## **2 BUDGETING**

### **C Preparing revenue budgets in accordance with the Council's Financial Strategy**

#### **Objectives**

- c.1 The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.
- c.2 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the spending plans and priorities of the Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent.
- c.3 Medium term planning (or a 3 to 5 year planning system) involves a rolling planning cycle in which the Council develops its plans. As each year passes another future year will be added to the Medium Term Plan. Medium term planning involves a minimum 5 year rolling planning cycle which ensures that the Council is always preparing for events in advance.

#### ***Key controls***

- c.4 The key controls for budget preparations are:
  - (a) specific budget approval for all expenditure;
  - (b) budget managers accept accountability within delegations set by the Cabinet 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 that any corrective action is taken.

#### ***Responsibilities of Chief Financial Officer***

- c.5 To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium term prospects, where appropriate.
- c.6 To determine the detailed form of revenue estimates, consistent with the general directions of the Council, and after consultation with the Cabinet and Strategic Directors.
- c.7 To prepare and submit reports to the Cabinet 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.
- c.8 To advise on the medium term implications of spending decisions.

- c.9 To encourage best use of resources and VfM by working with Strategic Directors to identify opportunities to improve effectiveness, efficiency and economy, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- c.10 To advise the Council on Cabinet proposals in accordance with his responsibilities under Section 151 of the Local Government Act 1972.

***Responsibilities of Strategic Directors***

- c.11 To prepare estimates of income and expenditure, in consultation with the Chief Financial Officer, to be submitted to the Cabinet for approval.
- c.12 To prepare budgets which are consistent with any relevant cash limits, the Council's annual budget cycle and guidelines issued by the Cabinet. The Chief Financial Officer shall prescribe the format in accordance with the Council's general directions.
- c.13 To integrate financial and budget plans into service plans, so that budget plans can be supported by financial and non-financial performance measures.
- c.14 To consult with Cabinet Members and relevant Strategic Directors, where it appears that a budget proposal is likely to impact on another service or level of service activity.
- c.15 In consultation with the Chief Financial Officer and in accordance with the agreed guidance and timetable to prepare detailed draft revenue and capital budgets for consideration by the Cabinet and Council.
- c.16 To have regard to:
- spending patterns and pressures revealed through the budget monitoring process;
  - legal requirements;
  - policy requirements as defined by the Council;
  - initiatives already underway.



### **3 USE OF RESERVES**

#### **Objective**

- 1 Reserves are maintained as a matter of prudence.

#### ***Key controls***

- 2 To maintain reserves in accordance with the CIPFA Code of Practice on Local Authority Accounting in the UK, the Council's Reserve Policy and agreed accounting policies.

#### ***Responsibilities of Chief Financial Officer***

- 3 To advise on prudent levels of reserves for the Council and to consider the advice of external audit in this matter.
- 4 To ensure that the nature and purpose of all reserves is clearly identified and that they conform to accepted accounting practice.
- 5 To ensure all movements to and from reserves receive the appropriate level of authorisation.
- 6 That the Council's Reserve Policy is reviewed on an annual basis.
- 7 Where Cabinet/Cabinet Member has approved the budget for a scheme to spend resources in-year and there are commitments against the scheme at year-end, an earmarked reserve should be created for use by the Department.
- 8 Other reserves will be created by the Chief Financial Officer in line with accounting policies where necessary.

### **ANNEX 3: CONTROL OF RESOURCES INCLUDING EMPLOYEES**

- 1 Internal controls
- 2 Audit requirements
  - a) internal audit
  - b) external audit
  - c) preventing financial irregularities
  - d) hospitality and gifts
- 3 Resources: Land, buildings, fixed plant and machinery
  - a) security
  - b) inventories
  - c) stocks and stores
  - d) intellectual property
  - e) private use of County Council facilities
  - f) asset disposal
- 4 Risk management and insurance
- 5 Treasury management
  - a) treasury management and banking
  - b) investments and borrowing
  - c) trust funds and funds held for third parties
  - d) imprest accounts
  - e) Money Laundering Regulations and Proceeds of Crime Act
- 6 Employees

## **1 INTERNAL CONTROLS**

### **Objectives**

- 1 The Council is complex and beyond the direct control of any one individual. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 2 The Council has statutory obligations to meet and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 3 The Council 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 identify, evaluate and control these risks.
- 4 The system of internal controls is established in order to provide measurable assurance of:
  - efficient and effective operations;
  - reliable financial information and reporting;
  - compliance with laws and regulations.

### ***Key controls***

- 5 Effective review on a regular basis.
- 6 Managerial control systems including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objectives of these systems are to promote ownership of the control environment by defining roles and responsibilities.
- 7 Financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.
- 8 An effective internal audit function which operates in compliance with the principles embodied in the Accounts and Audit Regulations 2015 (Regulations 3 and 5), the Public Sector Internal Audit Standards and with any other statutory obligations, regulations and professional Best Practice.

### ***Responsibilities of the Chief Financial Officer***

- 9 To assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, internal financial controls and compliance with laws and regulations.
- 10 To ensure that the Council puts in place effective internal financial controls covering codified guidance, budgetary systems, supervision, management

review and monitoring, physical safeguards, segregation of duties, accounting procedures, information systems and authorisation and approval processes.

***Responsibilities of Strategic Directors***

- 11 To manage processes so as to ensure that established controls are being adhered to, and to evaluate their effectiveness, in order to be confident in the proper use of resources.
- 12 To update existing controls and establish and implement new ones following consultation with the Assistant Director of Finance (Audit) who will consider the potential impact on the Internal Control Framework, and report to the Chief Financial Officer, raising any concerns as appropriate. The Chief Financial Officer will then formally consider the proposed changes. No changes may be actioned without the formal approval of the Chief Financial Officer.
- 13 To ensure employees have a clear understanding of the consequences of a lack of proper internal control frameworks or the deliberate breach or circumvention of such frameworks.

## **2 AUDIT REQUIREMENTS**

### **A INTERNAL AUDIT**

#### **Objective**

- a.1 The Chief Financial Officer has a statutory responsibility for the overall financial administration of the Council's affairs. Under the requirements of the Accounts and Audit Regulations 2015 (Regulation 5) the Council is responsible for maintaining an adequate and effective internal audit.
- a.2 Internal Audit is an independent, objective assurance and consulting activity established by the Council designed to add value and improve the Council's operations. It assists the Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

#### **Key controls**

- a.3 The key controls for internal audit are:
  - (i) that it remains independent in its planning and operation,
  - (ii) the Assistant Director of Finance (Audit) has direct access to the Audit Committee, Cabinet, Council and Strategic Directors.
  - (iii) Internal Audit officers comply with the requirements of the Accounts and Audit Regulations 2015 (Regulations 3 and 5), the Public Sector Internal Audit Standards and professional Best Practice.

#### **Responsibilities of Chief Financial Officer**

- a.4 In accordance with Regulation 5 of the Accounts and Audit Regulations 2015, the Council is required to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account Public Sector Internal Audit Standards or guidance.

#### **Responsibilities of Assistant Director of Finance (Audit)**

- a.5 The Assistant Director of Finance (Audit) or his/her authorised representative, shall have a right of access at all times to such records and documents, including computer data, and premises (in accordance with the protocol approved by Cabinet) of the Council as appear to him/her to be necessary for the purposes of the audit and shall be entitled to require from any Officer or Member of the Council such information and explanation as he/she thinks necessary for that purpose. The Assistant Director of Finance (Audit) shall provide relevant reports and advice to the officers concerned.
- a.6 The Assistant Director of Finance (Audit) is authorised to appraise the adequacy of procedures employed by Strategic Directors to secure effectiveness, efficiency and economy in the use of resources.

- a.7 All cases of suspected fraud, misappropriation or misuse of money, materials or equipment, or any mismanagement of money or other assets, or any other irregularities, must be reported immediately to the Assistant Director of Finance (Audit) who will investigate all cases of suspected fraud and other irregularities. He/she will, on conclusion of the audit investigation, report to the appropriate Strategic Director who will consider any legal proceedings and/or disciplinary action in consultation with the appropriate Strategic Director(s), Director of Legal Services, Chief Financial Officer and Assistant Director of Finance (Audit).
- a.8 The Assistant Director of Finance (Audit) must maintain Strategic and Annual Audit Plans which take account of the characteristics and relative risks of the activities involved which he/she will report to the Audit Committee annually for approval. He/she should liaise with Strategic Directors on the audit strategy and cover required. In addition to the statutory requirement this takes account of the need to seek added value, effective use of resources, improved performance and cost effective controls.
- a.9 Where an appropriate response to audit recommendations has not been made within a reasonable period, the Assistant Director of Finance (Audit) shall refer the matter to the appropriate Strategic Director for resolution. Where resolution cannot be reached, the matter shall be referred to the Chair of the Audit Committee, as specified in that Committee's Terms of Reference.
- a.10 The Assistant Director of Finance (Audit) shall produce an annual report giving his/her opinion on the Council's framework of internal controls to the Audit Committee in accordance with the requirements of the Public Sector Internal Audit Standards.
- a.11 The Assistant Director of Finance (Audit) is responsible for the consideration and formal approval of any changes that are proposed to existing financial, control and IT systems or the implementation of new systems. He/she will consider the potential impact on the Internal Control Framework and report to the Chief Financial Officer, raising any concerns as appropriate. The Chief Financial Officer will then formally consider the proposed changes. No changes may be actioned without the formal approval of the Chief Financial Officer.

### ***Responsibilities of Strategic Directors***

- a.12 To ensure that internal and external auditors are given unrestricted access to all records, personnel, assets and premises (in accordance with the protocol agreed by Cabinet) as necessary for the purpose of their work.
- a.13 To ensure that auditors are provided with any information and explanations which they seek in the course of their work.
- a.14 To consider and respond within 28 working days to recommendations in audit memoranda and reports.
- a.15 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and effective fashion.

- a.16 To notify the Assistant Director of Finance (Audit) immediately of any suspected fraud, misappropriation or misuse of money, materials or equipment, or any mismanagement of money or other assets, or any other irregularities. Pending investigation and reporting, the Strategic Director should in liaison with the Assistant Director of Finance (Audit) take all necessary steps to prevent further loss and to secure the integrity of records and documentation against removal, alteration or destruction.
- a.17 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with the Council's Assistant Director of Finance (Audit), prior to implementation. This regulation shall also apply to computer systems. The Assistant Director of Finance (Audit) will consider the potential impact on the Internal Control Framework and report to the Chief Financial Officer, raising any concerns as appropriate. The Chief Financial Officer will then formally consider the proposed changes. No changes may be actioned without the formal approval of the Chief Financial Officer.

## **2 AUDIT REQUIREMENTS**

### **B EXTERNAL AUDIT**

#### **Objectives**

- b.1 The Council has opted to use Public Sector Audit Appointments as part of a national joint procurement exercise to determine the Council's external auditor over the medium term.
- b.2 The Chief Financial Officer is responsible for working with the external auditor and for advising the Audit Committee, Cabinet, Council and Strategic Directors on their responsibilities in relation to external audit. The external auditor has the same rights of access as the internal auditor to all documents that are necessary for audit purposes.
- b.3 The Act requires the Comptroller and Auditor General (C&AG) to prepare one or more codes of audit practice prescribing the way local auditors are to carry out their functions. This responsibility is important both nationally and locally in supporting auditors and underpinning a consistent, high-quality approach to the audit of local public bodies. The C&AG has taken the opportunity to prepare a single code covering the audit of different types of local public body. This reflects the fact that the core statutory responsibilities placed on the auditors of the different types of local public body covered by the Code are essentially the same.
- b.4 The basic duties of the external auditor are governed by Section 20 of the Act, under which auditors need to satisfy themselves that:
  - the accounts comply with the requirements of the enactments that apply to them;
  - proper practices have been observed in the preparation of the statement of accounts and that the statement presents a true and fair view;
  - the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- b.5 The Council's accounts are scrutinised by external auditors who must be satisfied that the Statement of Accounts 'presents fairly' the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.



### ***Key controls***

- b.6 The C&AG provides a code of audit practice which prescribes how the external auditors carry out their functions.

### ***Responsibilities of Chief Financial Officer***

- b.7 To draw up the timetable for final accounts purposes and to advise staff and external auditors accordingly.
- b.8 To ensure that external auditors are given access to those premises, employees, documents and assets which the external auditors consider necessary for the purposes of their work.

### ***Responsibilities of Strategic Directors***

- b.9 To ensure that external auditors are given access to those premises, employees, documents and assets which the external auditors consider necessary for the purposes of their work.
- b.10 To ensure that all paperwork and systems are up to date and available for inspection.

## **2 AUDIT REQUIREMENTS**

### **C PREVENTING FINANCIAL IRREGULARITIES**

#### **Objectives**

- c.1 The Council's Policy for the prevention of financial irregularities is set out in full in its Anti Fraud and Anti Corruption Strategy Policy and Fraud Response Plan - which are issued to all Members and Officers of the Council.
- c.2 The Council will not tolerate fraud and corruption in the administration of its responsibilities whether from inside or outside the Council.
- c.3 The Council's expectation of propriety and accountability is that Members and Officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- c.4 The Council also expects that individuals and organisations (e.g. suppliers, contractors, partner bodies and service providers) that it comes into contact with, will act towards the Council with integrity and without thought or actions involving fraud and corruption.
- c.5 The Audit Committee is charged with conducting an annual review and re-affirmation of the Council's Anti Fraud and Anti Corruption Strategy and the Fraud Response Plan. It will also review and approve the Council's strategy to ensure the adequate on-going training and awareness of all employees regarding anti fraud and corruption measures.
- c.6 The Council has in place an approved Whistleblowing The Confidential Reporting Code which applies to all employees, contractors working for the Council on Council premises, suppliers, those providing services to the Council in their own premises and members of the public. This Code provides a procedure for making confidential disclosures about suspected wrongdoing, irregularity or a failure of standards within the Council.
- c.7 The Audit Committee is charged with providing an annual report to Cabinet and Council on the continued adequacy and effectiveness of the Whistleblowing The Confidential Reporting Code, its publication and the strategy to ensure that both Members and Officers remain aware of, and comply with, its requirements.

#### ***Key controls***

- c.8 The key controls regarding the prevention of financial irregularities are that:-
  - (a) the culture and tone of the Council is one of honesty and opposition to fraud and corruption;
  - (b) all Members and Officers act with integrity and lead by example;
  - (c) all individuals and organisations associated in any way with the Council will act with integrity;

- (d) senior managers are required to deal swiftly and firmly with those who defraud the Council or who are corrupt;
- (e) all employees should ensure that they remain aware of, and use, when appropriate, the Whistleblowing The Confidential Reporting Code.

***Responsibilities of Chief Financial Officer***

- c.9 To maintain adequate and effective audit arrangements for the Council.

***Responsibilities of Assistant Director of Finance (Audit)***

- c.10 To ensure that the outcome of investigations into potential fraud/irregularity are reported to the appropriate Strategic Director(s) in accordance with the Council's agreed procedure.

***Responsibilities of Strategic Directors***

- c.11 To notify the Assistant Director of Finance (Audit) immediately of any suspected fraud, misappropriation or misuse of money, materials or equipment, or any mismanagement of money or other assets, or any other irregularities. Pending investigation and reporting, the Strategic Director should in liaison with the Assistant Director of Finance (Audit) take all necessary steps to prevent further loss and to secure the integrity of records and documentation against removal, alteration or destruction.
- c.12 To instigate the Council's disciplinary procedures where the outcome of an Audit investigation indicates improper behaviour.

## **2 AUDIT REQUIREMENTS**

### **D SECONDARY EMPLOYMENT GIFTS AND HOSPITALITY**

**(See the requirements of the Council's Code of Conduct for Employees and Members)**

#### **Secondary Employment**

- d.1 The Council recognises that employees may undertake secondary employment (either within or outside of the council). A second job for the purpose of this advice is any job, paid or unpaid, with any employer and/or any type of self-employment. The carrying out of public duties does not count as a second job.
- d.2 Any secondary employment you undertake must not, nor have the potential to:
- Create a conflict of interest, for example, working for a company that either supplies or buys from the Council, or is in competition with the Council;
  - Overlap with official duties;
  - Make use of Council resources (including knowledge, property or equipment);
  - Weaken public confidence in the Council;
  - Bring the Council into disrepute, for example by undertaking an activity that could be deemed to be incompatible with your role;
  - Affect your performance or duties whilst at work.

Any secondary employment you undertake must:

- Be undertaken outside of your working hours with the Council;
  - Be undertaken away from your place of work.
- d.3 If undertaking secondary employment outside the Council, you must declare this to your Director/Strategic Director and agree that it be recorded on any register of secondary employment maintained by your Department.

You will be expected to inform your manager of:

- The name of your second employer;
  - The type of business in which the second employer is involved;
  - The type of work involved;
  - The proposed hours of work.
- d.4 When considering accepting secondary employment, either within or external to the Council, you must consider the implications of the working time directive which stipulates the maximum hours you should work in a week and required rest breaks. In particular, if you will be working over 48 hours per week in your combined roles, you must inform your manager, as this is in contravention of the Working Time Regulations, and you may be required to sign an opt out agreement.

- d.5 If any conflict between your roles is identified, you must resolve the conflict in favour of your role and duties with the Council.

## **EGIFTS**

- d.6 You may accept 'token' gifts from customers, contractors or service users up to the value of £50. Acceptable examples are calendars, diaries, pens or chocolates. All gifts should be reported to your manager.

You must not accept gifts worth more than £50 and you must report such offers to your Strategic Director.

You must refuse any offer of a gift where you suspect that an improper motive may exist – i.e. the giver is seeking to influence your decisions or actions and you must report such offers to your Strategic Director. This is the case regardless of the monetary value of the offer.

In no circumstances should you accept a monetary gift (including gift vouchers) and again, you must report such offers to your Strategic Director.

## **Hospitality**

- d.7 You should only accept hospitality (meals/refreshments) if there is a genuine need to impart information or to represent the Council. You should also ensure that accepting the hospitality does not create a conflict of interest and is not likely to cause embarrassment to the Council.

You should report the offer of hospitality, whether accepted or not, to your line manager, and should ensure that all such offers are recorded in the appropriate hospitality register.

## **Responsibilities of Strategic Directors**

- d.8 To maintain an appropriate register detailing secondary employment for staff within the Department and ensure that this register is subject to periodic review.
- d.9 To maintain an appropriate register of gifts and hospitality including details of any offers which have been declined and ensure that this register is subject to periodic review.

### **3 RESOURCES: Land, buildings, fixed plant and machinery**

#### **A SECURITY**

##### **Objectives**

- a.1 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets should be safeguarded and used efficiently in the delivery of services, and that there should be arrangements for the security of both assets and service operations.

##### **Key controls**

- a.2 The key controls for the security of resources such as land, buildings, fixed plant and machinery are:-
- (a) resources are acquired using an approved authorisation process;
  - (b) resources are used only for the purposes of the Council and properly accounted for;
  - (c) resources are secured to be available for use when required;
  - (d) resources no longer required are promptly disposed of in accordance with the law and the regulations of the Council so as to maximise benefits.

##### **Responsibilities of Chief Financial Officer**

- a.3 To ensure that an asset register is maintained in accordance with good practice which records plant and machinery and all moveable assets of a material value currently owned, or used, by the Council.
- a.4 To receive that information from each Strategic Director required for accounting, costing and financial records.

##### **Responsibilities of Director of Property**

- a.5 The Director of Property shall act in the capacity of corporate landlord for any property owned or leased by the Council.
- a.6 The Director of Property shall maintain a property database, for all land and properties currently owned or used by the Council.
- a.7 To ensure the ongoing provision of effective security arrangements for the Council's buildings and other assets.
- a.8 To record all disposals of assets, which shall be in accordance with the Council's agreed procedure.

## ***Responsibilities of Strategic Directors***

- a.9 To formally notify the Chief Financial Officer/Director of Property at the earliest opportunity of the requirement to purchase, take possession of or dispose of any material asset so that the Chief Financial Officer/Director of Property can arrange to process the transaction.
- a.10 Where there is no contractual obligation, expenditure on rented property shall be subject to consultation with the Director of Property.
- a.11 Any use of property by a Department or establishment other than for service delivery should be supported by documentation identifying terms, responsibilities and duration of the use.
- a.12 To ensure that lessees and other prospective occupiers of Council land and/or premises are not allowed to take possession or enter the land and/or premises until a lease or agreement, in a form approved by the Director of Property/Director of Legal Services has been established as appropriate.
- a.13 Where land or buildings are surplus to the requirements, they must be passed to the Director of Property for re-use or disposal. Running costs of the building remain the responsibility of the transferee until the asset is either sold or brought into new usage.
- a.14 To pass title deeds to the Director of Legal Services who is responsible for custody of all title deeds.
- a.15 To ensure that no Council asset is subject to personal use by an employee without proper authority.
- a.16 To ensure the safe custody of vehicles, equipment, furniture, stocks, stores and other property belonging to the Council.
- a.17 To ensure that the Department maintains an up-to-date register of all plant machinery and moveable assets in accordance with arrangements defined by the Chief Financial Officer.
- a.18 To ensure assets are identified, their location recorded and that they are appropriately marked and insured.
- a.19 To consult the Chief Financial Officer and Director of Property in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- a.20 To ensure cash holdings on premises are kept to a minimum.
- a.21 To ensure that keys to safes and similar receptacles are carried on the person responsible at all times; loss of any such keys must be reported to the Chief Financial Officer as soon as possible.
- a.22 To ensure the valuation of assets for accounting purposes meets the requirements specified by the Chief Financial Officer.

- a.23 To ensure that all their 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 Council in some way. Employees are governed by the requirements of the Data Protection and Computer Misuse Acts and should comply with the guidance provided by the Information Security Policy. Measures to protect the Council's resources include maintaining the confidentiality of passwords and ensuring that manual and electronic data is held in secure locations.



### **3 RESOURCES: Land, buildings, fixed plant and machinery**

#### **B INVENTORIES**

##### ***Responsibilities of Strategic Directors***

- b.1 To maintain inventories, and to record an adequate description of the items they contain (including ICT equipment). All items with a purchase price where known or estimated purchase cost greater than £250 should be recorded.
- b.2 To carry out an annual check of all items on the inventory in order to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and dvd players whose purchase price may not exceed £250 should prudently be both recorded on the inventory and identified with security marking as belonging to the Council.
- b.3 To ensure that property is only used in the course of the Council's business.
- b.4 Any proposals for the maintenance of inventory records involving electronic media or computerised systems must be reported to and considered by the Assistant Director of Finance (Audit) who will consider the potential impact on the Internal Control Framework and report to the Chief Financial Officer raising any concerns prior to implementation as many of the propriety software packages on the market do not contain adequate security features or audit trails. The Chief Financial Officer will then formally consider the proposed changes. No changes may be actioned without the formal approval of the Chief Financial Officer.

### 3. RESOURCES: Land, buildings, fixed plant and machinery

#### C STOCKS AND STORES

##### *Joint responsibilities of Strategic Directors and Chief Financial Officer*

- c.1 To make arrangements for the care and custody of stocks and stores in the Department.
- c.2 To ensure stocks are maintained at reasonable levels and subject to a regular independent physical check. All discrepancies should be recorded, investigated and pursued to a satisfactory conclusion.
- c.3 To write-off discrepancies and obtain appropriate approval in accordance with the table below:

| Written off by                             | Discrepancy Amount   |
|--|----------------------|
| Strategic Director/Chief Financial Officer | £0 - £181,303 (OJEU) |
| Cabinet Member                             | £181,303-£500,000    |
| Cabinet                                    | £500,000+            |

- c.4 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 Chief Financial Officer, the Cabinet decides otherwise in a particular case.
- c.5 To write-off redundant stocks and equipment and obtain appropriate approval in accordance with the table below:

| Written off by                             | Redundant Stocks/Equipment Amount |
|--|-----------------------------------|
| Strategic Director/Chief Financial Officer | £0 - £181,303 (OJEU)              |
| Cabinet Member                             | £181,303-£500,000                 |
| Cabinet                                    | £500,000+                         |

- c.6 All discrepancies on stocks and stores should be taken seriously. Where there is any suspicion that the discrepancy is a result of theft or fraudulent activity, this must be reported to the Assistant Director of Finance (Audit) immediately.
- c.7 Where concerns relate to the operation and management of the store, the discrepancy should be investigated by relevant Departmental staff. However, if concerns arise during this review that there may be potential dishonesty/fraudulent activity, the matter must be reported to the Assistant Director of Finance (Audit) immediately.

- c.8 Any stocks and stores discrepancies may only be written-off after the discrepancy has been investigated.
- c.9 Accounting policies require the Chief Financial Officer to reflect the true value of Stocks and Stores at the financial year end. This may require amounts to be written off before approval is obtained. When this occurs, retrospective approval should be sought.

### **3 RESOURCES: Land, buildings, fixed plant and machinery**

#### **D INTELLECTUAL PROPERTY**

(see the requirements of the Council's Code of Conduct for Employees)

##### **Objectives**

- d.1 Intellectual property is a generic term that includes inventions, computer programs and writings. If the employee during the course of employment creates these, then as a general rule they belong to the employer, not the employee. Various Acts of Parliament cover different types of intellectual property.
- d.2 Certain activities undertaken within the Council may give rise to items which may be patentable. These are collectively known as intellectual property.

##### ***Key Controls***

- d.3 In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should only proceed following consultations with, and taking advice from, the Director of Legal Services on a case by case basis.

##### ***Responsibilities of Strategic Directors***

- d.4 To ensure that employees are aware that they should not make use of the County Council's intellectual property to conduct private work.

### **3 RESOURCES: Land, buildings, fixed plant and machinery**

#### **E PRIVATE USAGE OF COUNTY COUNCIL FACILITIES**

**(See the requirements of the Council's Codes of Conduct for Employees and Members)**

- e.1 Employees are reminded that equipment or facilities of the Council may not be used for personal purposes. Where an explicit policy has been approved by Cabinet to provide for limited, personal use within a regulated framework, employees are reminded that the Council may legitimately monitor such private use to ensure compliance with that framework. Employees may not conduct outside work on the Council's premises or use its facilities or equipment for such purposes.

County Council facilities include, but are not limited to:

- Property
- Vehicles
- Telecommunications equipment
- Photocopiers/printers
- Computer hardware
- Software.

### **3 RESOURCES: Land, buildings, fixed plant and machinery**

#### **F ASSET DISPOSAL**

##### **Objective**

- f.1 It would be unsatisfactory 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 regulations of the Council.

##### ***Key Controls***

- f.2 Assets are disposed of at the most appropriate time and only when it is in the best interests of the Council and that the best price is obtained. For items of significant value, disposal should be by competitive tender or public auction. Waste electrical and electronic equipment should be disposed of in compliance with the Waste Electrical and Electronic Equipment Regulations 2006.

##### ***Responsibilities of Chief Financial Officer***

- f.3 To advise on best practice for disposal of assets.
- f.4 To ensure appropriate accounting entries are made.

##### ***Responsibilities of Strategic Directors***

- f.5 To seek advice from the Chief Financial Officer on the disposal of surplus or obsolete materials, stores or equipment.
- f.6 To ensure that income received for disposal of an asset is properly banked and coded.

## **4 RISK MANAGEMENT AND INSURANCE**

### **Objectives**

- 1 All organisations, whether they are in the private or public sectors, face risks to people, property and continued operations, which can affect delivery of services and achievement of the Council's objectives. Risk is defined as the chance or possibility of loss, damage or injury 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.
- 2 Insurance has been the traditional means of protecting against loss but this cannot be seen as the complete answer. By reducing, or even preventing, the incidence of losses (whether they result from crime or accident) the Council will improve service delivery and the effective use of resources, reduce stress and anxiety for service users and employees and benefit from reduced costs of providing insurance cover. It will also avoid the disruption and wasted time caused by losses and insurance claims.
- 3 It is the overall responsibility of Cabinet to approve the Council's Risk Management Strategy and to promote a culture of risk management awareness throughout the County.

### **Key Controls**

- 4 The key controls for risk management and insurance are:
  - procedures are in place to identify, assess, prevent or mitigate material risks and these procedures are embedded within the culture of the Council;
  - acceptable levels of risk are determined and insured against where appropriate;
  - managers are made aware of the spectrum of risks for which they are responsible and are provided with relevant information on risk management initiatives;
  - provision is made for losses which may result from the risks that remain;
  - procedures are in place to investigate insurance claims within required timescales;
  - a monitoring process is in place which ensures the regular review of the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;
  - the Council's Audit Committee will receive a report, at each meeting, on the Council's Risk Register and will consider any significant changes and monitor the effectiveness of the management of the key risks identified.

### ***Responsibilities of Chief Financial Officer***

- 5 To prepare and promote the Council's Risk Management Policy Statement.
- 6 To develop risk management strategies in conjunction with Strategic Directors.
- 7 To effect corporate insurance cover, through external insurance and internal funding, and negotiate all claims in consultation with other officers where necessary.
- 8 To include all appropriate employees of the County Council in a suitable fidelity guarantee insurance.
- 9 To offer insurance cover to schools in accordance with Fair Funding arrangements.
- 10 Claims against the County Council by its employees where there is no legal liability may be settled by the Director of Legal Services up to a limit of £300 in any case, in respect of damage to or loss of personal property occurring in the course of their duties. Provided that there is no contributory negligence, the settlement to be on the following basis: -
  - (a) for repairs to clothing or other property - full cost;
  - (b) for replacement of clothing or other property (where repair was impracticable) - three quarters of reasonable replacement cost.

### ***Responsibilities of Strategic Directors***

- 11 To notify the Chief Financial Officer immediately of any loss, liability or damage which may lead to a claim against the Council, together with any information or explanation required by the Chief Financial Officer or the Council's insurers. These should be reported irrespective of the application of any insurance excess.
- 12 To notify the Chief Financial Officer promptly of all new risks, properties, vehicles, plant or equipment, which require insurance, and of any alterations affecting existing insurances.
- 13 To consult the Chief Financial Officer and the Director of Legal Services on the terms of any indemnity that the Council is requested to give.
- 14 To ensure that Council employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation which may prejudice the assessment of liability in respect of any insurance claim.
- 15 To take responsibility for risk management having regard to advice from the Chief Financial Officer, the Corporate Risk Management Policy & Strategy and other specialist officers (eg Risk Management, Emergency Planning, Crime Prevention, Fire Prevention, Health and Safety).



- 16 To ensure that there are regular reviews of risk within their Departments in accordance with the Council's Corporate Risk Management Policy & Strategy.

## **5 TREASURY MANAGEMENT**

### **Objectives**

- 1 The County Council is responsible for the in-house management and investment of many hundreds of millions of pounds in respect of both itself and the Derbyshire Pension Fund. Codes of Practice aim to provide assurances that the Council's money is properly managed in a way which balances risk with return.

### **A Treasury Management and Banking**

#### ***Responsibilities of Chief Financial Officer***

- a.1 To arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's Treasury Management Policy Statement.
- a.2 To report at least twice a year to the Audit Committee/Cabinet on treasury management activities.
- a.3 To operate bank accounts as are considered necessary within the terms of the banking arrangement. Opening or closing any bank account shall require the prior approval of the Chief Financial Officer.

#### ***Responsibilities of Strategic Directors***

- a.4 To ensure that the Council's Treasury Management Practices as set out in the Treasury Management Manual are followed and regularly reviewed.

## **B Investments and Borrowing**

### ***Responsibilities of Chief Financial Officer***

- b.1 To ensure that all investments of money are made in the name of the Council, or school in the case of a school operating an approved bank account, or in the name of nominees approved by the Council.
- b.2 To ensure that:-
- all negotiable instruments which are the property of the Council or its nominees are securely held by the Council's External Custodian;
  - the title deeds of all property and land in the Council's ownership are passed to the Director of Legal Services who will maintain their safe custody;
  - other share certificates relating to investments in Unquoted Companies, which are the property of the Council or its nominees, are securely held by the Chief Financial Officer; and
  - all investments on behalf of the Council in Strategic Pooled Funds are independently validated by the Council's appointed external audit provider.
- b.3 To effect all borrowings in the name of the Council.
- b.4 To act as the Council's registrar of stocks, bonds, and mortgages, and to maintain records of all borrowing of money by the Council.

### ***Responsibilities of Strategic Directors***

- b.5 To ensure that no loans are made to third parties and no interests are acquired in companies, joint ventures, or other enterprises without the approval of the Council, following consultation with the Chief Financial Officer.

## **C Trust Funds and Funds held for Third Parties**

### ***Responsibilities of Strategic Directors***

- c.1 To arrange that all trust funds are in the name of the Council. Trust funds should not be held in the name of individual officers. All officers acting as trustees by virtue of their official position shall deposit securities etc. relating to the trust with the Chief Financial Officer/Director of Legal Services unless the deed otherwise provides.
- c.2 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Chief Financial Officer and maintain written records of all transactions.
- c.3 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust, and to contact the Director of Legal Services as appropriate.

## **D Imprest Accounts**

### ***Responsibilities of Chief Financial Officer***

- d.1 To provide employees of the Council with cash or bank imprest accounts to meet minor expenditure and low value procurement spend on behalf of the Council and to prescribe rules for operating these accounts.
- d.2 To maintain a record of all petty cash advances made and periodically review the arrangements for the safe custody and control of these advances.
- d.3 To record and maintain the issue of debit cards held against imprest accounts, and in conjunction with Strategic Directors ensure the cards are used in accordance with the Corporate Debit Card Policy
- d.4 To reimburse imprest holders as often as necessary to restore the imprest balance in accordance with the Imprest Management Programme guidance.

### ***Responsibilities of Strategic Directors***

- d.5 To ensure that employees operating an imprest account:
  - (a) Operate the account in accordance with the Imprest Management Program Guidance and comply with the Corporate Debit Card Policy ensuring that the Chief Financial Officer is informed of any debit holders no longer authorised to hold cards and that they have been securely destroyed
  - (b) obtain and retain vouchers and receipts to support each payment from the imprest account. Where appropriate an official receipted VAT invoice must be obtained;
  - (c) make adequate arrangements in their office for the safe custody of the account;
  - (d) produce upon demand by the Chief Financial Officer, cash and all vouchers to the total value of the imprest amount;
  - (e) record transactions promptly;
  - (f) reconcile and balance the account at least monthly; reconciliation to be recorded within the Council's Imprest Management Programme;
  - (g) do not overdraw the imprest bank account,
  - (h) ensure that the imprest is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of any surplus monies remaining from purchases which have been funded by an advance;
  - (i) operate in accordance with Section 115 of the Local Government Act 1972 whereby any officer employed by the Council shall at such times

during the continuance of his/her office or within three months of ceasing to hold it and, in such a manner as the Council may direct, make out and deliver to the Council a true account in writing of all money and property committed to his/her charge, and of his/her receipts and payments with vouchers and other documents and records supporting the entries contained, and a list of persons from whom or to whom money is due in connection with this office, showing the amount due from or to each;

- (j) do not purchase goods on behalf of the Council using a personal store/loyalty card;
- (k) no payment is made from an imprest account to fund the purchase of foreign currency for the purposes of defraying expenditure in connection with authorised overseas visits. However, the use of debit cards abroad held against imprest accounts is permitted if operated in accordance with the Corporate Debit Card Policy. Any foreign currency requirements should be processed by the Corporate Resources General Office who will obtain the appropriate currency;
- (l) all discrepancies on imprest accounts should be taken seriously. Where there is any suspicion that the discrepancy is a result of theft or fraudulent activity, this must be reported to the Assistant Director of Finance (Audit) immediately;
- (m) where concerns relate to the operation and management of the account, the discrepancy should be investigated by relevant Departmental finance staff. However, if concerns arise during this review, that there may be potential dishonesty/fraudulent activity, the matter must be reported to the Assistant Director of Finance (Audit) immediately;
- (n) any imprest account imbalances may only be written-off by the Strategic Director after the discrepancy has been investigated;
- (o) approval must be sought by the Chief Financial Officer or their delegated officer to use imprest accounts for other income and expenditure streams that cannot be processed via the main council accounts.

## **E Money Laundering Regulations and Proceeds of Crime Act**

- e.1 Money laundering is a term used for a number of offences involving the proceeds of crime or terrorist funds. It also includes the processing, or in any way dealing with, or concealing, the proceeds of crime.
- e.2 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 place specific obligations on employees responsible for handling and processing cash transactions.

### ***Key controls***

- e.3 It is Council policy not to accept individual cash payments of more than £10,000.
- e.4 For amounts between £2,500 and £10,000, confirmation must be sought from the payee that the funds were not generated under circumstances that would leave the County Council in jeopardy. The Council's anti-money laundering officer will make the relevant decisions.
- e.5 Where the transaction is under £2,500 and there are reasonable grounds to suspect money laundering activities, proceeds of crime or it is suspicious, the matter must be reported to the Council's nominated anti-money laundering officer.

### ***Responsibilities of Chief Financial Officer***

- e.6 The Chief Financial Officer should ensure that appropriate arrangements are in place to inform and provide training to all relevant Officers in respect of the requirements placed upon them by this legislation. He/she will also determine and maintain appropriate internal reporting procedures including the nomination of an Officer whose job is to receive disclosures from anyone in the organisation who is suspicious of money laundering and report this to the National Crime Agency.

### ***Responsibilities of Strategic Directors***

- e.7 Strategic Directors should ensure that all employees are made aware of the Anti-Money Laundering Policy and receive appropriate training on their obligations under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and the duty to notify the Chief Financial Officer of any known or suspected money laundering activities.

## **6 EMPLOYEES**

### **Objectives**

- 1 In order to provide the highest level of service, it is essential that the Council recruits and retains high calibre, knowledgeable employees, qualified to an appropriate level. An appropriate Human Resources Strategy and policies should exist, in which HR requirements and budget allocation should be matched.

### **Key controls**

- 2 The key controls for human resources are:
  - (a) that workforce planning is in place for forecasting HR requirements and cost;
  - (b) that procedures are in place for monitoring employee expenditure against budget;
  - (c) that controls are implemented which ensure that employee time is used efficiently and benefits the Council.

### ***Responsibilities of the Director of Organisation Development and Policy***

- 3 To act as an advisor to Strategic Directors on areas such as PAYE, National Insurance and pension contributions as appropriate.

### ***Responsibilities of Strategic Directors***

- 4 To monitor employee activity to ensure the maintenance of adequate control over such costs as sickness, overtime, training and temporary employment costs.
- 5 To ensure that effective management and supervision protocols exist to validate the accuracy and integrity of working times recorded and expenses claimed.
- 6 To ensure that the requirements of the Recruitment and Selection Policy in respect of the validation of qualifications claimed and references regarding previous employment are followed. Similarly that for all posts requiring Disclosure and Barring Service checks, these checks are completed prior to the employee taking up appointment and appropriate evidence retained.



## **ANNEX 4: SYSTEMS AND PROCEDURES**

- 1 General
- 2 Income
- 3 Payments to Members and employees
- 4 Ordering and paying for work, goods and services
- 5 Taxation

## **1 GENERAL**

### **Objectives**

- 1 Strategic Directors operate many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Departments are reliant on IT 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.
- 2 The Chief Financial Officer has a professional responsibility to ensure that the Council's financial and control systems are sound and therefore the Assistant Director of Finance (Audit) must be consulted on any new developments or proposed changes, and will assess the potential impact of such changes on the Internal Control Framework and report to the Chief Financial Officer, raising any concerns as appropriate. The Chief Financial Officer will then formally consider the proposed changes. No changes may be actioned without the formal approval of the Chief Financial Officer.

### **Key Controls**

- (a) Basic data exists to enable the Council'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;
- (e) an ongoing audit of the Council's activities and control systems both financial and operational is maintained.

### **Responsibilities of Chief Financial Officer/Assistant Director of Finance (Audit)**

- 3 To make arrangements for the proper administration of the Council's financial affairs, including to:
  - (a) issue advice, guidance and procedures for the Council's Members, Officers and others acting on its behalf (Chief Financial Officer);
  - (b) determine the accounting systems, form of accounts and supporting financial records (Chief Financial Officer);
  - (c) review any proposed changes to existing financial and/or control systems or the establishment of new systems and consider the potential impact on the Internal Control Framework and report to the Chief Financial Officer raising any concerns (Assistant Director of Finance)

(Audit)). The Chief Financial Officer will then formally consider the proposed changes. No changes may be actioned without the formal approval of the Chief Financial Officer;

- (d) agree the Departmental Scheme of Financial Delegation proposed by Strategic Directors annually (Chief Financial Officer).

### ***Responsibilities of Strategic Directors***

- 4 To ensure that accounting records are properly maintained and held securely.
- 5 To ensure that vouchers and documents with financial implications are retained in accordance with arrangements approved by the Chief Financial Officer.
- 6 To ensure that a complete audit trail, allowing financial transactions to be traced from the original document to the accounting records and vice versa, is maintained.
- 7 To incorporate appropriate controls to ensure that:
  - (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.
- 8 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and minimise the risk of fraud or other malpractice.
- 9 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.
- 10 To ensure that all business critical systems are identified, documented and appropriate officers trained in their operation.
- 11 To consult with the Assistant Director of Finance (Audit) before changing any existing system or introducing new systems.
- 12 To establish a scheme of delegation identifying officers authorised to act upon the Strategic Director's behalf in respect of payments, income collection, imprest accounts and placing orders, including variations and determining the limits of their authority. The scheme of delegation should be reviewed and updated annually.
- 13 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Chief Financial Officer, together with any subsequent variations.
- 14 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 in an alternative location within the building.

- 15 To ensure that, where appropriate, all systems containing personal data are identified and registered in accordance with the Data Protection legislation and that staff are aware of their responsibilities under the legislation.
- 16 To ensure that relevant standards and guidelines for computer systems issued by the Director of Finance & ICT are observed.
- 17 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism etc.
- 18 To comply with the Copyright, Designs and Patents Act 1988 and in particular, ensure that:
  - (a) only software legally acquired and installed by the Council is used on its computers and appropriate licences are retained;
  - (b) staff are aware of legislative provisions;
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.
- 19 To ensure that employees are aware of their obligations to comply with and observe electronic access controls, maintain security and confidentiality of electronic identifiers and passwords and their duty to comply with the requirements of the Computer Misuse Act 1990.

## **2 INCOME**

### **Objectives**

- 1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all of the income due is identified, collected, receipted and banked promptly and properly.

### **Key Controls**

- 2 The key controls for income are:
  - (a) all income due to the Council is identified and charged correctly;
  - (b) all income is collected from the correct person, at the right time using the correct procedures and the approved recording systems;
  - (c) all money received by an employee on behalf of the Council is paid intact and without delay to the Chief Financial Officer or as he/she directs, to the Council's bank, and properly recorded;
  - (d) effective action is taken to pursue non-payment within defined timescales;
  - (e) the County Council does not accept individual cash payments with a value in excess of £10,000;
  - (f) The Chief Financial Officer or the Director of Legal Services, in conjunction with the Strategic Director, will have the authority to write off any debt where all reasonable measures have been taken to recover the debt. Budget Monitoring reports to both management and Members will include an analysis of the latest departmental / portfolio debt recovery positions.
  - (g) appropriate write off action is taken within defined timescales;
  - (h) appropriate financial provisions are made for bad or doubtful debts;
  - (i) appropriate accounting adjustments are made following write off action;
  - (j) all appropriate income documents are retained and stored for the defined period in accordance with the "Guidelines on the Retention of Financial Records".

### ***Responsibilities of Chief Financial Officer***

- 3 To agree arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection.
- 4 To approve all receipt forms, books or tickets and similar items and satisfy him/herself regarding the adequacy of the arrangements for their control and safe storage, including electronic storage media.
- 5 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts which are not paid promptly.
- 6 Under section 151 of the 1972 Local Government Act and in accordance with accounting policies the Chief Financial Officer has responsibility for the administration of financial affairs and as such must ensure that debt is reflected accurately and promptly within the financial accounts, and so will have the ability to apply financial postings as he deems appropriate.
- 7 Once the Chief Financial Officer and the Director of Legal Services establish that a debt is irrecoverable due to bankruptcy or insolvency the write off will be processed promptly and where necessary reported retrospectively.
- 8 The Chief Financial Officer and the Director of Legal Services will ensure that an annual review of historic debt takes place to ensure that debt is proactively managed.
- 9 The Chief Financial Officer will each year prepare a summary report of debt write offs charged to Departmental budgets and circulate to Strategic Directors.

### ***Responsibilities of Strategic Directors***

- 10 To establish a schedule of fees and charges for the supply of goods and services etc, including the appropriate charging of VAT and review it at least annually, within corporate policies.
- 11 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 12 To establish and initiate appropriate recovery procedures, including legal action where necessary, for non-invoiced debts which are not paid promptly.
- 13 To ensure that invoices are accurate and issued promptly within a target maximum of 21 days from provision of service. Strategic Directors have a responsibility to collect debts and to provide any information requested by the Chief Financial Officer/Director of Legal Services to enable debts to be pursued effectively on the Council's behalf.
- 14 To officially record income collected using the approved system(s).
- 15 At all points where it is reasonable to expect that postal remittances may be received to ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.

- 16 To hold securely receipts, tickets and other records of income, for six years plus the current accounting year in line with statutory requirements and retention schedules.
- 17 To process and maintain debit/credit card details in accordance with approved procedures and ensuring compliance with the Payment Card Industry (PCI) Security Standards.
- 18 To ensure all income collected is held securely in locked storage to safeguard against loss or theft and to ensure the security of cash handling. Access to such locked storage should be minimised.
- 19 To ensure that income is paid intact and promptly into the appropriate Council bank account in the form in which it is received. The processing of cash should be reduced as far as is practicably possible. Appropriate details should be recorded on paying in slips to provide an audit trail.
- 20 To ensure income is not used to cash personal cheques or other payments.
- 21 To keep a record of every transfer of official money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 22 As per the Departments scheme of delegation, authorise write off debts up to the OJEU limit, and to keep a record of all sums so written off. In no case will the officer raising the debt be empowered to authorise its writing off. Once raised, no bona fide debt can be cancelled except by payment in full, its formal writing off or in the form of a reversal or reduction adjustment under procedures agreed with the Chief Financial Officer.
- 23 Ensure write off action is done promptly and that appropriate financial provisions are made for bad or doubtful debts.
- 24 To notify the Chief Financial Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by him.
- 25 To minimise administration costs by limiting the issue of an invoice to sums of £25 and above unless a lower limit is agreed with the Chief Financial Officer. Sums due below this level should be collected prior to service delivery in accordance with procedures agreed with the Chief Financial Officer. Pensioner debt invoices should not be ordinarily raised for sums under £100 and should be adjusted accordingly within the Finance and HR systems.

### **3 PAYMENTS TO MEMBERS AND EMPLOYEES**

#### **Objectives**

- 1 Employee costs are the largest item of expenditure for most Council services. It is, therefore, important that there are effective controls in place to ensure that payments are made only where they are due for services to the Council and that payments accord with individual's conditions of employment.

#### **Key Controls**

- 2 The key controls for payments to Members and employees are:
  - (a) proper authorisation procedures and adherence to corporate timetables for:
    - Starters,
    - Leavers,
    - Variations,
    - Enhancements;
  - (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 "Guidelines on the Retention of Financial Records".

#### ***Responsibilities of the Director of Organisation Development and Policy***

- 3 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees in accordance with procedures prescribed by him/her, on the due date.
- 4 To ensure these entries are entered into the accounting systems in a form prescribed by the Chief Financial Officer.
- 5 To record and monitor tax, pension and other deductions.
- 6 To make arrangements for payment of all travel and subsistence claims to Officers.
- 7 To make arrangements for payment of all travel and subsistence claims to Members after receipt of the duly authorised form from the Chief Financial Officer.
- 8 To provide advice and encouragement to secure payment of salaries and wages by most economical means.
- 9 Recovery of overpayments of salary for employees and pensioners.



### ***Responsibilities of Chief Financial Officer***

- 10 To make arrangements for paying Members travel or other allowances upon receiving the prescribed form duly completed and authorised.
- 11 To reconcile all payroll entries into the accounting system on a monthly basis.
- 12 To determine the form which entries from the payroll system should take when posted into the accounting system.

### ***Responsibilities of Strategic Directors***

- 13 To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades, scale of pay and that adequate budget provision is available.
- 14 To notify the Director of Organisation Development and Policy 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 Director of Organisation Development and Policy.
- 15 To ensure that adequate and effective systems and procedures are operated for HR and payroll aspects, so that:
  - (a) payments are only authorised to bona fide employees;
  - (b) payments are only made where there is a valid entitlement;
  - (c) conditions and contracts of employment are correctly applied;
  - (d) employees' names listed on the payroll are checked at regular intervals to verify accuracy, completeness and continued employment;
  - (e) there is an effective system of checking and certifying payroll forms.
- 16 To maintain up to date lists of the names of officers authorised to sign records, a copy of which should be forwarded to the Director of Organisation Development and Policy, together with specimen signatures.
- 17 To ensure that payroll transactions are processed only through the payroll system. Strategic Directors should seek advice from the Director of Organisation Development and Policy in respect of the employment status of individuals employed on a "self-employed or sub contract" basis. HM Revenue & Customs applies a tight definition for employee status and in cases of doubt, advice should be sought from the Director of Organisation Development and Policy/Director of Legal Services.
- 18 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were pre-authorised, related to official business and expenses actually, properly and necessarily incurred and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and the Director of Organisation Development and Policy is informed where appropriate. Full details on the claiming of expenses by employees will be issued from time to time by the Director of Organisation Development and Policy.

- 19 To ensure that the details of any employee benefits in kind are notified to the Director of Organisation Development and Policy to enable full and complete reporting within the Income Tax Self-Assessment system.
- 20 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the “Guidelines on the Retention of Financial Records”.

***Responsibilities of Members***

- 21 To submit claims for Members’ travel, subsistence and dependant carers’ allowances on a monthly basis and in any event, within one month of the financial year end.

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

### **Objectives**

- 1 Public money should be spent with demonstrable probity and in accordance with the Council's policies. The Council's procedures should help to ensure that services receive VfM in their purchasing arrangements. These procedures should be read in conjunction with the Council's Standing Orders Relating to Contracts and the Derbyshire Codes of Conduct.

### **General**

- 2 Every member and officer of the Council has a responsibility to declare, by completing the Council's Declaration of Interest form, any links or personal interests which they may have with purchasers or suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council.
- 3 Official orders, whether electronic or paper based, must be in a form approved by the Chief Financial Officer. Official orders must be issued for all work, goods or services to be supplied to the Council except for supplies of utilities, debit card transactions, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Chief Financial Officer.
- 4 Each order must conform to the directions of the Council on procurement and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Chief Financial Officer.
- 5 Apart from petty cash and schools' own bank accounts the normal method of payment of money due from the Council shall be by BACS transfer. Payments can be made by cheque or other instrument but this will be a small proportion of total payments. The use of direct debit and other forms of payment methods shall require the individual, prior agreement of the Chief Financial Officer.
- 6 Official orders must not be raised for any personal or private purchases, nor should personal or private use be made of Council contracts.

### **Key controls**

- 7 The key controls for ordering and paying for work, goods and services are:
  - (a) all goods and services are ordered only by appropriate persons using approved electronic ordering systems. In emergencies, manual orders can be used;
  - (b) all goods and services shall be ordered in accordance with the Council's Standing Orders Relating to Contracts/Procurement Strategy;
  - (c) goods and services received are checked on receipt to ensure they are in accordance with the order and receipted wherever the electronic system used for ordering allows;

- (d) payments are authorised by officers who can certify that goods received conform to price, quantity and quality;
- (e) in normal circumstances the process of ordering, receipt of goods/services and authorisation of payment will be carried out by separate officers to maintain adequate separation of duties;
- (f) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method;
- (g) all appropriate payment documents are retained and stored for the defined periods in accordance with the Council's 'Guidelines on the Retention of Financial Records';
- (h) all expenditure, including VAT, is accurately recorded against the appropriate budget head and any exceptions corrected;
- (i) all references in this section of the regulations should be taken to include, and apply equally to e-commerce transactions. The advent of this element of the Council's operations requires that processes are in place to maintain the security and integrity of data for transacting business electronically; and
- (j) during an emergency or business continuity event it may become necessary to procure supplies at short notice or to place orders with suppliers who are not already approved by the Council. Further details on these arrangements can be found in the Council's Corporate Business Continuity Plan.

***Responsibilities of Chief Financial Officer/Assistant Director of Finance (Audit)***

- 8 To ensure that all of the Council's financial systems and procedures are sound and well administered.
- 9 The Assistant Director of Finance (Audit) will review any proposed changes to existing financial and/or control systems or the establishment of new systems and consider the potential impact on the Internal Control Framework and report to the Chief Financial Officer raising any concerns. The Chief Financial Officer will then formally consider the proposed changes. No changes may be actioned without the formal approval of the Chief Financial Officer.
- 10 To approve the form of official orders, and associated terms and conditions (Chief Financial Officer).
- 11 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order (Chief Financial Officer).
- 12 To make payments to contractors on the certificate of the appropriate Strategic Director, which must include details of the value of work, retention money,

amounts previously certified and amounts now certified (Chief Financial Officer). The Chief Financial Officer can set tolerances which will be monitored.

- 13 To provide advice and support on making payments by the most economical means (Chief Financial Officer).

### ***Responsibilities of Strategic Directors***

- 14 To ensure that all contracts have been awarded and expenditure has been approved in accordance with the Procurement and Award Procedures set out in Appendix A of these Regulations.
- 15 To ensure that employees comply with these Procurement requirements and are aware of their responsibilities under the Council's Code of Conduct for Employees.
- 16 Official orders shall be in a form approved by the Chief Financial Officer and shall be signed personally either manually or by secure electronic protocols by the Strategic Director or by officers authorised by him/her. Responsibility for orders lies with the Strategic Director.
- 17 To ensure that uniquely numbered orders are used for all goods and services.
- 18 To ensure that all orders are placed using properly approved systems and to refer any proposed changes to existing financial systems or the implementation of new systems to the Assistant Director of Finance (Audit) before they are introduced. Where orders are produced in a printed format they are controlled stationery and should be retained securely when not in use.
- 19 To ensure that where credit procurement and debit cards are available to employees they are controlled, used and maintained in accordance with procedures that have been agreed by the Chief Financial Officer.
- 20 To ensure that orders are only used for goods and services provided to the County Council. Individuals must not use official orders to obtain goods or services for their private use.
- 21 To ensure that only those employees authorised by the Strategic Director sign orders and to maintain an up-to-date list of such authorised employees:
  - including specimen signatures where paper based systems are used, or
  - reports of access privileges for all users of electronic systems identifying in each case the limits of their authority.
- 22 The signatory 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 as required by standing orders and good procurement practice. VfM should always be taken into consideration.

- 23 To ensure that a budgetary control system is established which enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that it can be taken into account in budget monitoring reports.
- 24 To ensure that goods and services are checked on receipt to validate that they are in accordance with the order, and that the order whether paper or electronic is endorsed 'goods received' and dated. A different officer from the person who signed the order should carry out this check. Appropriate entries will then be made in inventories or stores records.
- 25 To ensure that payment is not made unless a proper invoice has been received, checked, coded and certified for payment and the order endorsed 'passed for payment' and dated to confirm:
- (a) receipt of goods or services (payment should not be made in advance of goods being received unless specific prior approval is given);
  - (b) that the invoice has not previously been paid;
  - (c) that expenditure has been properly incurred and is within budget provision;
  - (d) that prices are correct and accord with quotations, tenders, contracts or catalogue prices;
  - (e) that the invoice is arithmetically correct;
  - (f) the correct accounting treatment of any relevant tax;
  - (g) the invoice is correctly coded;
  - (h) discounts have been taken where available; and
  - (i) that appropriate entries will be made in accounting records.
- 26 To ensure that an authorised employee who should be a different officer from the person who authorised the order, and in every case a different officer from the person certifying that the checks detailed at 26 above have been completed, authorises invoices.
- 27 To ensure that the Department maintains and reviews periodically a list of staff approved to certify and authorise invoices. Names of authorising officers together with specimen signatures (or lists of access privileges) and details of the limits of their authority shall be forwarded to the Chief Financial Officer.
- 28 Payment should not routinely be made on a photocopied or faxed invoice, statement or other document other than the formal invoice unless specific prior approval has been obtained. Any instances of these being rendered should be reported to the Assistant Director of Finance (Audit).
- 29 To encourage suppliers of goods and services to receive payment by the most efficient means for the Council. Payments should, however, not be made by

direct debit unless essential and with the prior approval of the Chief Financial Officer.

- 30 To ensure that the Department obtains best VfM from purchases by utilising the Council's approved procurement procedure taking, where appropriate, steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the guidelines and best practices issued by the Chief Financial Officer.
- 31 To operate within the County Council's approved Procurement Strategy and procedures ensuring that for appropriate purchases competitive quotations or tenders are sought. These will comply with Standing Orders in Relation to Contracts, which covers:
  - (a) authorised officers and the extent of their authority;
  - (b) advertisement for competitive tenders or seeking quotations through the Source Derbyshire website and in additional publications when appropriate;
  - (c) selection of tenderers;
  - (d) compliance with UK and EU legislation and regulations;
  - (e) procedures for the submission, receipt, opening and recording of tenders;
  - (f) the circumstances where financial or technical evaluation is necessary;
  - (g) procedures for negotiation;
  - (h) acceptance of tenders;
  - (i) the form of contract documentation;
  - (j) cancellation clauses in the event of corruption or bribery; and
  - (k) contract records.
- 32 To ensure that all employees are aware of the Council's Code of Conduct.
- 33 All acquisitions and disposals of land and/or buildings (whether by leasing, rental or any other means) shall be negotiated and agreed by the Director of Property and Director of Legal Services.
- 34 To ensure that no loan, leasing or rental arrangements are entered into without prior agreement from the Chief Financial Officer. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure VfM is being obtained.
- 35 To notify the Chief Financial Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by him/her and in all cases by no later than 30 April.

- 36 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Chief Financial 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 sub contractors' tax status.
- 37 To notify the Chief Financial Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 38 To ensure that all appropriate payment records are retained and stored for the defined periods in accordance with the "Guidelines on the Retention of Financial Records."
- 39 Other than for the use of refuelling a vehicle provided under the County Council's car hire scheme, which has been pre-authorised by a line manager, employees should not make official purchases using personal credit/debit cards for which they subsequently seek reimbursement from the County Council as this circumvents the requirement for pre-authorisation by an independent party and negates the requirement to demonstrate best value in relation to these purchases. Similarly personal store account cards/loyalty cards held in the name of private individuals should not be used in connection with County Council purchases.



## 5 TAXATION

### ***Objectives***

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

### ***Key controls***

- 2 The key controls on taxation are:
  - (a) budget managers are provided with relevant information and kept up to date on tax issues;
  - (b) budget managers 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 time scale.

### ***Responsibilities of Chief Financial Officer***

- 3 To complete a monthly return of VAT input and outputs to HM Revenue & Customs.
- 4 To provide monthly and annual returns to HM Revenue & Customs regarding the Construction Industry Tax Deduction Scheme:
- 5 To maintain up to date guidance for Council employees on taxation issues in the VAT Manual.
- 6 To account for tax in connection with pension fund investments, including overseas tax.

### ***Responsibilities of Director of Organisation Development and Policy***

- 7 To complete all HM Revenue & Customs returns regarding PAYE.

### ***Responsibilities of Strategic Directors***

- 8 To ensure that the correct VAT liability is attached to all income and that all VAT recoverable on purchases complies with HM Revenue & Customs Regulations.
- 9 All new proposals to generate income must be notified to the Technical Section, Corporate Finance to ensure that the VAT implications are evaluated and addressed.

- 10 All coding slips on creditor invoices, bank paying in slips and debtor accounts must be completed in accordance with instructions.
- 11 VAT on expenditure from imprest accounts can only be recovered if VAT receipts are obtained and included with reimbursement claims.
- 12 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax Deduction requirements.
- 13 To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona-fide self-employed or are employed by a recognised employment agency. All payments to employees must be made through the payroll system, except with the explicit approval of the Chief Financial Officer.
- 14 To follow the guidance on taxation issued by the Chief Financial Officer in the VAT Manual. The VAT Manual is widely distributed and advice on any matter can be obtained from the Chief Financial Officer.

## **ANNEX 5: EXTERNAL ARRANGEMENTS**

- 1 Partnerships
- 2 External funding
- 3 Work for third parties

## **1 PARTNERSHIPS**

### **Objectives**

- 1 Local Authorities work in partnership with the wider public and voluntary sectors and private providers.

### **PARTNERSHIPS - GENERAL**

- 2 A partnership is “an agreement between two or more independent bodies working collectively to achieve an objective”, as a joint arrangement not as a single entity.
- 3 The main reasons for entering into a partnership are to achieve the aims and objectives of the Council by the most effective means. This will include:
  - (a) improving service delivery by maximising and sharing the use of resources;
  - (b) fulfil the Council’s role as a community lead;
  - (c) meet the Council’s statutory requirements;
  - (d) the desire to find new ways to share risk;
  - (e) the ability to access new resources;
  - (f) to forge new relationships.
- 4 A partner is defined as either:
  - (a) an organisation (private, voluntary 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.
- 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 in the provision of financial or other resources;
  - (c) being the beneficiary group of the activity undertaken in a project.
- 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) to be open about any conflict of interests which might arise;
- (d) to encourage joint working between themselves, promote the sharing of information, resources and skills between public, voluntary, private and community sectors;
- (e) to maintain the confidentiality of information received as a result of partnership activities or duties, and to recognise that such information may be of a personal/commercially sensitive nature;
- (f) to act wherever possible as ambassadors for the project;
- (g) to act at all times in accordance with the terms and conditions of the partnership agreement and within the broader requirements of demonstrable probity both in terms of personal conduct and stewardship of public funds.

### ***Key controls***

7 The key controls for Council partnerships are:

- (a) each proposed partnership should be subject to a risk assessment and allocated a risk ranking;
- (b) where the partnership has been given a risk ranking of High or Medium this must be justified by a formal business case and be subject to a formal legal arrangement;
- (c) to be aware of the nature of the partnership, and, for individual officers to be aware of their personal responsibilities and delegated authority as regards the partnership, under the Council's Financial Regulations and Standing Orders in Relation to Contracts;
- (d) to agree and formally document the roles and responsibilities of each of the partners involved in the project before its commencement;
- (e) all partnerships should be formed in accordance with agreed criteria and after proper legal consultation and should accord with guidance stipulated in the Council's Partnership Development Toolkit;
- (f) a formal register should be maintained which details, in respect of all partnerships in which the Council participates:
  - its aims and objectives,
  - its approved duration,
  - the Council's commitment in terms of finance and other resources,
  - the accountable organisation for the partnership,

- the framework by which the performance of the partnership is to be monitored,
  - the Council's exit strategy on completion or termination of the partnership;
- (g) Auditing arrangements must include, as a minimum, guaranteed rights of access for the County Council's auditors at all times to all documents, records, premises and those employees who relate to, or are provided by, the Council's contributions to the partnership.

### ***Responsibilities of Chief Financial Officer***

- 8 To advise on the effectiveness of the proposed framework of controls and responsibilities within the operation of the partnership.
- 9 To advise on the key elements of funding a project:
- (a) risk assessment and scheme appraisal for financial viability;
  - (b) accounting and audit requirements.
- 10 Arrange for internal or external audit scrutiny as appropriate.

### ***Responsibilities of Director of Legal Services***

- 11 The Director of Legal Services must:
- (a) establish, maintain and review the legal framework for the County Council's participation in partnership working;
  - (b) ensure that all proposed partnership arrangements are:
    - within the County Council's powers,
    - the subject of a legal agreement in an approved form,
    - adequately defined by the agreement's terms and conditions,
    - subject to adequate insurance cover for any liability of the proposed partnership which may rest with the County Council,
    - financially viable,
    - open and promote active decision-making;
  - (c) a constitution exists which clarifies:
    - the aims and objectives of the partnership,
    - each partner's responsibility in terms of financial liability,
    - asset ownership issues resulting from the partnership,
    - each partner's responsibilities in respect of any employees employed for the purpose of the partnership,
    - security and confidentiality of information and the extent of any data sharing including requirements under the Freedom of Information Act,
    - the roles and responsibilities of individual partner bodies,

- the regulatory framework for the partnership,
- the exit strategy on cessation of the partnership including any liabilities then arising,
- arbitration/conciliation arrangements in the event of dispute.

### ***Responsibilities of Strategic Directors***

- 12 To ensure that the approval of the Cabinet is obtained before any negotiations are entered into with regard to proposed partnership arrangements and that a risk assessment of the proposed partnership has been undertaken.
- 13 To maintain the central register of all partnership arrangements entered into in accordance with procedures specified by the Chief Financial Officer and which contains as a minimum the details specified at paragraph 7(f) above.
- 14 To ensure that accountability frameworks are specified within a written agreement with all partners. This will include agreements regarding prevention and addressing of overspendings; covering inflation; managing efficiency savings; and other resource or financial issues.
- 15 To account for any contributions to pooled budgets and where the Council is the Budget Holder, maintain accounts in accordance with the agreed budget arrangements, the Council's accounting policies and procedures and the requirements of these regulations.
- 16 To ensure that all partnership agreements include adequate provision for internal and external financial monitoring of their operation, and that these provisions meet internal and external needs.
- 17 To ensure that all financial records relating to the Council's participation in the partnership are retained as required by the Council's Document Retention requirements.
- 18 To ensure that the Director of Legal Services has been consulted on and given approval to the proposed contractual arrangements for the partnership before any legal commitment is signed.
- 19 To ensure that there are sufficient, available levels of expertise, employees and resources to meet the obligations imposed by the partnership agreement.
- 20 To ensure compliance with the required control frameworks including these regulations with regard to any partnership initiatives.
- 21 To ensure that the performance of the partnership against its key aims and objectives, as identified in the partnership register, is regularly monitored and reported.
- 22 To ensure that an exit strategy is in place, to safeguard the County Council on completion or termination of the contract/partnership.

## **2 EXTERNAL FUNDING**

### **Objectives**

- 1 As local authorities are encouraged to provide 'seamless' service delivery through working closely with other agencies, voluntary organisations and private sector providers, the scope for external funding has increased. However, such funding is often linked to specific objectives which may not be sufficiently flexible to link with the Council's overall plan. Therefore funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council.

### **Key controls**

- 2 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 priorities in the policy framework approved by the Council;
  - (c) To ensure that any matched funding requirements are given due consideration and approval prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of Director of Legal Services**

- 3 To provide guidance on potential grant funded activities, ensure that they support priorities identified by Council and are within the legal powers of the Council.

### **Responsibilities of Chief Financial Officer**

- 4
  - (a) To maintain a record of expected grants to be received showing the amount of grant, receipt date(s) and designated responsible officer in consultation with Strategic Directors;
  - (b) To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts;
  - (c) To ensure that Strategic Directors make grant claims by the due date;
  - (d) To identify the long-term implications of funding arrangements and ensure that these are considered prior to entering into any agreements;
  - (e) To investigate ways of maximising grant income;
  - (f) To ensure that the requirements of these Regulations including audit arrangements are met.



### ***Responsibilities of Strategic Directors***

- 5 To provide plans which demonstrate how the grant funds will be used to support service plan objectives and any conditions attached to that funding.
- 6 To ensure that all expenditure is properly incurred and recorded, that income is received at the appropriate time, returns are made by the specified dates, and in liaison with the Assistant Director of Finance (Audit) that the audit requirements of the funding body can be met.
- 7 To ensure compliance with Financial Regulation 2.a13(v) (Revenue Budget) which requires that an exit strategy is in place and is implemented on the cessation of external funding.
- 8 To ensure that all required approvals are obtained before external funding agreements are entered into.
- 9 To maintain an up-to-date Departmental record of all external funding sources.
- 10 Where the Council receives additional funding for activities outlined in the Service Plan, this can be approved by the Strategic Director.
- 11 Where the Council receives additional funding above £500,000 not outlined in the Service Plan, this should be approved by Cabinet.

### **3 WORK FOR THIRD PARTIES**

#### **Objectives**

- 1 Current legislation enables the Council to provide a range of services to certain other bodies. Such work may enable the Council to maintain economies of scale and retain existing expertise. Arrangements should be in place to ensure that any risks associated with this work are minimised.

#### **Key controls**

- 2 To ensure that proposals are properly costed, self-financing and are not at variance with the Council's Plans or Policies. The service receiving income from third parties must reimburse all costs including development costs incurred by other council services in respect of traded income.
- 3 To ensure that contracts are drawn up using guidance provided by the Director of Legal Services and that the formal approvals process is adhered to. Where appropriate the Council should be protected against potential losses/claims by an appropriate level of professional indemnity insurance in line with the service to be provided.

#### **Responsibilities of Chief Financial Officer**

- 4
  - (a) To maintain a record of expected income to be received from third parties including the amount of income against associated expenditure, receipt date(s) and designated responsible officer in consultation with Strategic Directors;
  - (b) To ensure that all income generated from work for third parties is received and properly recorded in the Council's accounts;
  - (c) To ensure that Strategic Directors are able to demonstrate effective contract performance;
  - (d) To identify the long-term implications of income arrangements and ensure that these are considered prior to entering into any agreements;
  - (e) To investigate ways of maximising income from working for third parties;
  - (f) To ensure that the requirements of these Regulations including audit arrangements are met.

#### **Responsibilities of Strategic Directors**

- 5 Strategic Directors may undertake work for third parties including traded activity as follows:
  - Up to £50,000 per annum to be approved by the Strategic Director
  - From £50,000 to £250,000 per annum, approved by the Strategic Director, in consultation with the Chief Financial Officer

- £250,000 to £500,000 per annum with formal approval of the Cabinet Member
  - Over £500,000 per annum with the approval of Cabinet
- 6 For contracts (including traded activity) over £50,000 per annum a business case must be provided to the Chief Financial Officer setting out how the contract or traded arrangement will recover costs which adheres to the rules set out by the Chief Financial Officer.
  - 7 To ensure that the Department has all necessary skills and expertise to discharge the requirements placed upon it by the contract or traded arrangement.
  - 8 To ensure that all contracts or traded arrangements are properly executed and that all appropriate documentation exists.
  - 9 To maintain a register of all contracts or traded arrangements entered into with third parties in accordance with procedures specified by the Director of Legal Services.
  - 10 To ensure that appropriate insurance cover is effected.
  - 11 To ensure that adequate arrangements are in place for prompt and accurate billing of any service provided.
  - 12 To ensure that the Council is not put at risk from any bad debts. Service providers must also be prepared to review or withdraw services if substantial debts remain outstanding.
  - 13 To ensure that such contracts or traded arrangements are not subsidised by the Council.
  - 14 To ensure that such contracts or traded arrangements do not impact adversely upon the services provided for the Council.
  - 15 To provide all appropriate information to the Chief Financial Officer to enable a note to be entered into the Statement of Accounts.

## **4 GRANTS TO EXTERNAL ORGANISATIONS**

### **Objectives**

- 1 The Council provides grants to external organisations

### ***Key controls***

- 2 Cabinet Members will approve grants to external organisations up to £100,000. Any grants over £100,000 require Cabinet authorisation.

### ***Responsibilities of Strategic Directors***

- 3 To ensure that Officers have satisfied themselves that organisations to be grant-aided are financially viable for the duration of the appropriate project or activity. They must also provide adequate notice of any grant they propose to make or withdraw.
- 4 To ensure that the purpose of the grant is communicated to the external organisation.
- 5 To maintain a register of all grants provided to external organisations in line with the Transparency Code to demonstrate political transparency and that there is no favouritism. The register should record the details of the grant including, date, amount, payee and objectives/purpose of the grant.

# STANDING ORDERS RELATING TO CONTRACTS

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## 1. INTRODUCTION

Section 135 of the Local Government Act 1972 requires a local authority to make standing orders with respect to the making of Contracts by them or on their behalf for the supply of goods or materials or for the execution of works.

These Standing Orders relating to Contracts (**the “Standing Orders”**) are the standing orders required by the 1972 Act. They form part of the Council’s Constitution and are, in effect, the instructions of the Council, to Officers and elected members, for entering into contracts on behalf of the Council.

These Standing Orders provide a framework for procurement activity across the Council. They set out how contracts for goods, services and works should be put in place; the governance requirements associated with such activity, and the contract management of contracts once they are entered into.

These Standing Orders should not be regarded in isolation, but rather as part of the overall governance and regulatory framework of the Council as set out in the Constitution, including, but not limited to, the Council’s Scheme of Delegation, the Financial Scheme of Delegation, and the Financial Regulations. These Standing Orders cover UK and EU legislative requirements as well as good practice.

These Standing Orders are to protect the interests of the Council, its officers, elected members and the general public and must be complied with at all times.



## 2. GENERAL

### 2.1 Definitions and Interpretation

2.1.1 In these Standing Orders, the following words shall have the following meanings:

|                                      |  |
|--------------------------------------|--|
| <b>“Business Case”</b>               | means either of the Council’s two business cases for below £50,000 or £50,000 and above as set out in Standing Order 2.11;                                 |
| <b>“Client”</b>                      | means the Council Officer who is responsible for the commissioning and delivery of works, goods, or services on behalf of the Council in their given role; |
| <b>“Contract”</b>                    | means an agreement with the Council for the execution of works or the supply of goods or services, including on a concession basis;                        |
| <b>“Corporate Debit Card Policy”</b> | means the policy of the Council in relation to the use of the Council’s corporate debit card;  |
| <b>“Council”</b>                     | means Derbyshire County Council;   |
| <b>“Council Plan”</b>                | means a plan outlining the Council’s ambitions, values and overarching outcomes for Derbyshire as approved annually by Council;                            |
| <b>“Departmental Service Plans”</b>  | means the departmental plans, which support the implementation of the Council Plan;  |
| <b>“Directive”</b>                   | means Directive 2014/24/EU;  |

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|--|--|
| <b>“Enterprising Council Initiative”</b>   | means the Council’s transformation programme, which is bold, ambitious and enterprising as set out in the report to Cabinet on 22 <sup>nd</sup> February 2018, entitled ‘Moving towards an Enterprising Council’;  |
| <b>“Financial Regulations For Schools”</b> | means a document produced specifically in respect of financial regulations and procedures for schools;   |
| <b>“Financial Scheme of Delegation”</b>    | means the documents setting out the Officer financial authorisation levels for each Council Department;  |
| <b>“Firm”</b>                              | means any business entity or person, including bodies corporate and corporations, associations, organisations, partnerships, co-operatives, trusts or other unincorporated bodies;   |
| <b>“Light Touch Regime OJEU Threshold”</b> | means, for the purpose of these Standing Orders, the financial threshold for social and other specific services pursuant to regulation 5 of the Public Contracts Regulations 2015, which is set at £615,278 (equivalent to approx €750,000) as of, 1 <sup>st</sup> January 2018, and is revised every two years; |
| <b>“Order Form”</b>                        | means the order form used by the Council as part of the Council’s e-procurement system;  |
| <b>“Officer”</b>                           | means an employee of Derbyshire County Council;  |
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|  |   |
|--|---|
| <b>“Procurement and Award Procedure”</b> | means the procurement and award procedures of the Council as set out in the eight Protocols detailed in Standing Order 3.2 and Appendix A of these Standing Orders;   |
| <b>“Procurement Connection”</b>          | means the area of the Council's website that contains information and templates to assist with procurement activities;  |
| <b>“Procurement Professional”</b>        | means any Officer of the Council who is either (a) a qualified procurement professional, or (b) a procurement professional by way of their Council role as a purchaser of works, goods, or services;  |
| <b>“Procurement Strategy”</b>            | means the Council's procurement strategy as may be amended and updated from time to time;   |
| <b>“Protocols”</b>                       | means the procurement and award procedures of the Council as set out in Standing Order 3.2 and Appendix A.  |
| <b>“Public Notice”</b>                   | means a notice published on the Source Derbyshire website, the Contracts Finder website and, where appropriate, one trade newspaper or journal circulating among such Firms that undertake such contracts;  |
| <b>“Regulations”</b>                     | means the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016, the Concession Contracts Regulations 2016, the Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 as amended and updated from time to time; |

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|--|--|
|  |  |
| <b>“School Contract”</b>                                 | means a Contract let by the governing body of a school acting in the exercise of its powers in respect of a delegated budget;  |
| <b>“Senior Officer”</b>                                  | means an Officer of sufficient seniority as set out in the Financial Scheme of Delegation and where not set out in those documents, as determined by the appropriate Strategic Director;   |
| <b>“Standstill Period”</b>                               | means the period of time within which the Council must not enter into Contracts as set out in regulation 87 of the Public Contracts Regulations 2015;  |
| <b>“Terms &amp; Conditions for Goods &amp; Services”</b> | means the Council’s corporate terms and conditions for goods and services;   |
| <b>“Terms &amp; Conditions for Works”</b>                | means the Council’s corporate terms and conditions for works;  |
| <b>“Supplies and Services OJEU Threshold”</b>            | means, for the purpose of these Standing Orders, the financial threshold for supplies and services pursuant to regulation 5 of the Public Contract Regulations 2015, which is set at £181,302 (equivalent to approx €221,000) as of, 1 <sup>st</sup> January 2018, and is revised every two years; |
|  |  |

|                               |   |
|-------------------------------|---|
| <b>“Works OJEU Threshold”</b> | means, for the purpose of these Standing Orders, the financial threshold for works pursuant to regulation 5 of the Public Contracts Regulations 2015, which is set at £4,551,413 (equivalent to approx €5,548,000) as of, 1 <sup>st</sup> January 2018, and is revised every two years; |
|-------------------------------|---|

- 2.1.2 Any reference in these Standing Orders to a statute, statutory instrument or statutory provision includes a reference to that statute, statutory instrument or statutory provision together with all Standing Orders and regulations made under it as from time to time amended, consolidated or re-enacted.
- 2.1.3 Any reference in these Standing Orders to an Officer of a certain level shall include a reference to an Officer authorised by them to act on their behalf provided that such authorisation is contained within the Council’s Scheme of Delegation, including, the Financial Scheme of Delegation.
- 2.1.4 For the purposes of these Standing Orders, in ascertaining whether an agreement falls within the definition of a Contract, the determining factor will be the substance of the agreement and not the form. For the avoidance of doubt, where the effect of the agreement is that the Council has works, services or goods delivered to it or on its behalf, then for the purposes of these Standing Orders, it will be a Contract. Using other words, titles or headings as descriptors of an agreement (e.g. Memorandum of Understanding, Grant, Memorandum of Agreement etc.) where the Council has works, services or goods delivered for it or on its behalf, does not avoid the application of these Standing Orders.
- 2.1.5 Supplier and contractor are used interchangeably in these Standing Orders and mean a third party organisation with whom the Council may contract.

## **2.2 Basic Principles**

2.2.1 All procurement procedures must:

- (a) support all relevant Council plans, priorities and policies, including the Council Plan, the Enterprising Council Initiative and the Procurement Strategy, including social value;
- (b) realise value for money by seeking to achieve the optimum combination of whole life costs and quality of outcome;
- (c) uphold the highest standards of integrity;
- (d) comply with all applicable legislative requirements, including National and European Union (EU) law;
- (e) ensure:
  - (i) transparency – both in terms of procedures and contract opportunities;
  - (ii) equality of treatment and non-discrimination of potential suppliers;
  - (iii) proportionality – both in terms of procedures and decision making during the procurement process;
  - (iv) mutual recognition – giving equal validity to qualifications and standards from other Member States, where appropriate.

## **2.3 Application of the Standing Orders**

2.3.1 These Standing Orders apply to the procurement and letting of the following types of contracts by or on behalf of the Council:

- (a) the purchasing of any goods or materials;

- (b) the purchasing of any services, including consultancy services;
- (c) the renting, hiring or leasing of any equipment or goods;
- (d) the ordering or carrying out of any building or engineering works;  
and
- (e) the purchasing of any goods or services using external funding.

2.3.2 Every procurement and award of a Contract made by or on behalf of the Council shall also comply with National law and EU law, including the Treaty of Rome and subsequent EU Directives.

2.3.3 The OJEU threshold for goods and services is the Supplies and Services OJEU Threshold; the OJEU threshold for works is the Works OJEU Threshold and the OJEU threshold in respect of social and other specific services is the Light Touch Regime OJEU Threshold, all of which apply to the application of these Standing Orders.

2.3.4 Should there be a conflict or discrepancy between these Standing Orders and any National or EU law, the law shall always prevail and must be followed.

2.3.5 The procurement and award of a Contract made by or on behalf of the Council shall not comply with these Standing Orders where:

- (a) an exemption applies pursuant to Standing Order 2.4 below;
- (b) a waiver of the Standing Orders has been granted pursuant to Standing Order 2.5 below;

- (c) the Contract is a School Contract procured by the school, in which case it shall be procured and awarded in accordance with the Financial Regulations For Schools.

2.3.6 Where another local authority undertakes a procurement as the commissioning authority for and on behalf of the Council, including with any other parties, the standing orders, procurement procedures and financial regulations of that other local authority may be relied upon provided that the Procurement Professional, in conjunction with the Client, ensures that the procurement of the works, goods and/or services to which that Contract relates, is carried out in accordance with all applicable National law, EU procurement law, including the Treaty of Rome and subsequent EU Directives and Regulations, and they shall obtain confirmation in writing from the other commissioning local authority that such compliance has been achieved.

## **2.4 Exemptions to the Standing Orders**

2.4.1 The following types of transactions and/or forms of Council expenditure are not required to be part of a competitive process pursuant to these Standing Orders. Please be advised that the following list is not exhaustive and advice should always be sought from Corporate Procurement or Legal Services where there is uncertainty:

- (a) expenditure under approved Council Contracts, which have already been appropriately procured in accordance with these Standing Orders;
- (b) disposals, acquisitions or transfer of interest in or over land/property, where such transactions do not form part of a wider works, goods or services transaction that is being procured;
- (c) items sold or purchased by public auction;
- (d) employment offers/contracts which makes the individual a direct employee of the Council;



- (e) expenditure with other Council departments that can provide works, goods or services to the Council;
- (f) Contracts for the execution of mandatory works by statutory undertakers, where the statutory undertaker is the only body that can perform the works.

2.4.2 Legal Services must be contacted for advice about whether a matter is exempt from the Standing Orders.

## **2.5 Waivers of Standing Orders**

2.5.1 Any requirement of these Standing Orders may be waived by the Council, Cabinet, Cabinet Member or Strategic Director, but only where it is satisfied that there are special circumstances justifying exemption and it is legal to do so.

2.5.2 All such waivers of these Standing Orders shall be formally minuted.

2.5.3 A waiver of these Standing Orders cannot circumvent the law and cannot as a matter of law excuse non-compliance with the law.

## **2.6 Procurement Strategy**

2.6.1 The aim of the Procurement Strategy is to:

- (a) set out how the Council will carry out procurement and commissioning activities, in line with the National Procurement Strategy, to ensure value for money in the delivery of high quality services; and
- (b) to recognise that the procurement and commissioning of goods, works and services can deliver additional benefits in the support of its strategic and policy objectives as set out in the Council Plan.

2.6.2 All procurement activities must be undertaken in accordance with the Procurement Strategy and Strategic Directors must ensure that all

requirements of the supply of goods, services and works are carried out in line with the Procurement Strategy and the Council's procurement Protocols.

- 2.6.3 The Chief Financial Officer is responsible for annually producing and updating the Procurement Strategy for approval by Cabinet.

## **2.7 Contract Value and Disaggregation**

- 2.7.1 The value of a Contract must not be sub-divided or underestimated for the purpose of reducing the total value of the contract in order to bring the procurement exercise below the relevant EU threshold and, therefore, be exempt from the application of the EU Directives, the Regulations or these Standing Orders.
- 2.7.2 In determining how to calculate the estimated value of a procurement in order to comply with the Public Contracts Regulations 2015, please contact Corporate Procurement or Legal Services for advice.
- 2.7.3 The value of a Contract must also not be sub-divided or underestimated for the purpose of reducing the total value of the contract in order to bring the procurement exercise below the Council's thresholds in the Protocols so as to avoid the Council's procedural requirements.
- 2.7.4 Contract expenditure figures must be monitored quarterly, based on an assessment of risk, to ensure that the basis of any Contracts awarded remain appropriate and legal.

## **2.8 Conflicts of Interest**

- 2.8.1 All Officers involved in any procurement process are required to adhere to the Officers' Code of Conduct and the Council's Anti-Fraud and Anti-Corruption Strategy. Furthermore, in accordance with the Officers' Code of Conduct as set out in the Constitution, where an Officer engages or supervises contractors or has any other official relationship with contractors and has previously had or currently has a relationship

in a private or domestic capacity with a contractor, the Officer must declare that relationship to their Strategic Director.

- 2.8.2 Contracts and purchases must be awarded on merit, in accordance with these Standing Orders and the Financial Regulations and no special favour should be shown to businesses run by, for example, friends, partners or relatives.
- 2.8.3 Any Officer involved in a tendering process for goods, services or works that is above the Supplies and Services OJEU Threshold, must declare any interest they have in the matter to which that procurement process relates, including a nil interest, by completing and signing a Declaration of Interest Form, which will be held by Corporate Procurement. Should the Officer's interest change during the course of the procurement process, that change in interest must be declared. Appropriate action must be taken pursuant to the interest that is declared, including removing the Officer from that particular procurement process.

## **2.9 Compliance and Breach**

- 2.9.1 All Officers must comply with these Standing Orders and each Strategic Director shall ensure that Contracts let by Officers in his or her service comply with these Standing Orders.
- 2.9.2 Where an Officer is found to be in breach of these Standing Orders, appropriate action will be taken as follows:
  - (a) for an inadvertent breach the Officer's manager will provide guidance and support, including explaining the consequences and gravity of non-compliance;
  - (b) for a first deliberate breach the Officer's manager will meet with the Officer to formally discuss the breach and any required actions and details of the breach shall be recorded;
  - (c) for subsequent deliberate breaches the Officer's manager will meet with the Officer together with a senior Officer to the manager to

formally discuss the matter. Such remedial action may be taken as the manager and senior Officer consider appropriate in the circumstances, including but not limited to, formal action under the Council's disciplinary procedure. Details of all subsequent deliberate breaches shall be recorded.

- 2.9.3 Any non-compliance with or breach of Standing Orders must be considered with regard to the requirements of paragraph 2Aa.7 of Financial Regulations. This details the action to be taken in all cases of suspected fraud, misappropriation or misuse of money, materials or equipment, or any mismanagement of money or other assets, or any other irregularities. In any case of doubt the Assistant Director of Finance (Audit) must be consulted.

## **2.10 Authority to Authorise**

- 2.10.1 The Council's Scheme of Delegation, which forms part of the Council's Constitution, including the Financial Scheme of Delegation sets out the governance requirements in respect of delegations for decision making that all Officers and elected members must comply with.
- 2.10.2 High level decisions are reserved for Council, Cabinet and Cabinet Member and any matter that is not reserved for Council, Cabinet or Cabinet Member may be approved by the Strategic Directors of each Department where such delegation is set out in the Council's Scheme of Delegation, including the Financial Scheme of Delegation.
- 2.10.3 Where goods, services or works are procured, Cabinet, Cabinet Member and Strategic Directors have authorisation to approve the procurement process and the award of contracts (depending on value) as detailed in Standing Order 3 and the table in Appendix A to these Standing Orders, which sets out the Council's eight Protocols.

## **2.11 Business Cases**

2.11.1 The following procurement processes require the submission of a Business Case to the Chief Financial Officer and the Director of Legal Services for approval before the procurement process commences:

- (a) Permission to use a non-Derbyshire County Council framework (Protocol 2A);
- (b) Sole supplier (Protocol 6);
- (c) Material changes to Contracts (Protocol 7);
- (d) Extensions of Contract beyond originally awarded period or indicated spend (Protocol 8).

2.11.2 There are two Business Case templates, one of which is for procurements with a contract value below £50,000 and is simple in nature; and the other is for procurements with a contract value of £50,000 and above. This higher value Business Case is more detailed and includes an options risk assessment section. Both Business Case templates are located on Procurement Connection.

2.11.3 Advice on completing the Business Cases may be obtained from Corporate Procurement.

## **2.12 Social Value**

2.12.1 Consideration must be given to how what is being procured might improve the economic, social and environmental well-being of Derbyshire residents as well as how that improvement might be secured. This applies to all procurements where it is relevant and it must be proportionate and in line with the Public Services (Social Value) Act 2012.

## **2.13 Departmental Service Plan**

- 2.13.1 It is Council practice that all procurements of Contracts with a contract spend above £50,000 must be included within the appropriate Departmental Service Plan, which will be approved by Council. Where such approval to procure a Contract is included in the Departmental Service Plan, the award of the Contract can then be approved at Strategic Director level.
- 2.13.2 If a procurement of a Contract is not detailed in the appropriate Departmental Service Plan, Cabinet or Cabinet Member (as appropriate) approval to procure the Contract must be obtained along with their approval to delegate the award of the Contract to the relevant Strategic Director.

## **3. COMPETITIVE PROCESS**

### **3.1 Procurement Overview**

- 3.1.1 Officers must comply with National and EU procurement law and the Council's governance framework when undertaking the procurement of goods, services or works for or on behalf of the Council.
- 3.1.2 Pursuant to Standing Order 3.1.1, Officers must ensure that they comply with the Public Contracts Regulations 2015 when procuring goods, services or works.
- 3.1.3 There are seven main competitive processes permitted under the Public Contracts Regulations 2015 and they represent best practice for all procurements above the applicable OJEU thresholds:
- (a) Open Procedure;
  - (b) Restricted Procedure;
  - (c) Dynamic Purchasing System;
  - (d) Framework Agreements (with or without mini-competitions);
  - (e) Competitive Procedure with Negotiation;

- (f) Competitive Dialogue;
- (g) Innovation Partnership.

3.1.4 The Standing Orders pertaining to each of these is different and the process chosen to fulfil a supply requirement must not only meet the business needs of the Council but also the purpose for which the process was designed. Each process also comes with selection risks and resource implications, to which due consideration must be given.

3.1.5 It is, therefore, essential that Officers appraise themselves of the various procedures and how best to utilise them to deliver Value for Money (“**VfM**”) and the right business solution.

3.1.6 The Council has also created eight Procurement and Award Procedures, which are set out in the eight Protocols detailed in Standing Order 3.2 below and Appendix A, which must be followed when procuring goods, services or works.

3.1.7 The Procurement and Award Procedures identify the required approach that must be followed for contracts and awards across the Council and specifically highlight the following information:

- (a) the type of spend that they cover;
- (b) the process that is required to deliver a compliant procurement;
- (c) the minimum advertising requirements to conform to Council and legal requirements;
- (d) the requirements of a contract between the Council and a contractor;
- (e) how a contract should be awarded;
- (f) where the publication of the award shall take place;
- (g) registration of the contract on a departmental contract database;
- and
- (h) the requirements for inclusion on the Council’s financial system to allow payment of the supplier and monitoring of the tender/contract process.

- 3.1.8 It must be noted that all references to OJEU in the 'Award of Contract' column in the Procurement and Award Procedures table in Appendix A, means the Supplies and Services OJEU Threshold, irrespective of whether the procurement is for goods, services or works. All references to OJEU in the other columns in the Procurement and Awards Procedure table in Appendix A, means the relevant OJEU threshold for the activity undertaken.
- 3.1.9 It should be noted that the admission of a contractor onto the Council's financial system will be dependent on demonstrating that the correct process of market engagement and award has been followed.
- 3.1.10 All procurements must use standardised documentation, which is located on Procurement Connection.
- 3.1.11 All competitions shall be in accordance with the best practice guidance of the Chief Financial Officer and the Director of Legal Services. Such guidance is available on Procurement Connection and defines the minimum standards required when undertaking procurement activity.
- 3.1.12 Where the procurement activity has a contract value that is below the relevant OJEU threshold for the activity that is being undertaken, Officers must ensure that they comply with EU Treaty principles, the Regulations, all relevant guidance, case law and advice from the Director of Legal Services when undertaking tender processes or seeking quotations.
- 3.1.13 It is recommended that early advice from Corporate Procurement and Legal Services is sought before the commencement of a procurement process.



## **3.2 Protocols – The Council’s Procurement and Award Procedures**

The Council’s Procurement and Award Procedures are comprehensively set out in the eight Protocols tabled in Appendix A. For the avoidance of doubt, any references to the OJEU threshold in the Award of Contract section of the Protocols, means the Supplies and Services OJEU Threshold, irrespective of whether the procurement is for goods, services or works. References to the OJEU threshold in the remainder of the Protocols, means the relevant OJEU threshold for the activity undertaken. The table in Appendix A clearly sets out the sections of the Protocols in seven columns. Below are some of the key features of each of the eight Protocols.

### **3.2.1 Protocol 1**

3.2.1.1 Protocol 1 is applicable to all contracts above the relevant OJEU threshold, including Derbyshire County Council framework agreements, but excluding non-Derbyshire County Council framework agreements and, as such, the requirements of the Public Contracts Regulations 2015 must be complied with.

3.2.1.2 All such tendering must be carried out utilising the Council’s approved eTendering system.

3.2.1.3 It is important that advice is sought from the Director of Legal Services at the earliest possible stage on the contract approach to be taken.

3.2.1.4 If a procurement is already included in the approved Departmental Service Plans, approval to award the contract must be sought from the Departmental Strategic Director. If it is not included in the approved Departmental Service Plan, approval to award must be sought from Cabinet Member or Cabinet, depending on value.

### 3.2.2 Protocol 2 (A)

3.2.2.1 Protocol 2 (A) must be followed where permission to use a non-Derbyshire County Council framework agreement is intended.

3.2.2.2 Under this Protocol the relevant value Business Case (below £50,000 or above £50,000) must be submitted to the Chief Financial Officer and the Director of Legal Services, which must include total spend that justifies the use of the non-Derbyshire County Council framework agreement, VfM, local impact, and evidence that the framework agreement is legally compliant.

3.2.2.3 Approval of the terms and conditions of the framework agreement is required from the Director of Legal Services.

3.2.2.4 If a procurement is already included in the approved Departmental Service Plan, the approval for permission to use a non-Derbyshire County Council framework agreement must be sought from the appropriate Strategic Director. If the procurement is not in the approved Departmental Service Plan, approval for permission to use the non-Derbyshire County Council framework agreement must be obtained from Cabinet Member or Cabinet, depending on value.

### 3.2.3 Protocol 2 (B)

3.2.3.1 Protocol 2 (B) sets out the award and procedure route for call-offs from a non-Derbyshire County Council framework agreement (established under Protocol 2 (A)).

3.2.3.2 The terms and conditions of the framework agreement must be complied with, including the requirements for mini-competition, where appropriate.

3.2.3.3 Approval to award a call-off contract from a non-Derbyshire County Council framework agreement must be sought from the appropriate Strategic Director.

### 3.2.4 Protocol 3

3.2.4.1 Calling-off from a DCC Framework (established under Protocol 1 or 4) falls within Protocol 3.

3.2.4.2 The terms and conditions of the framework agreement must be complied with, including the requirements for a mini-competition, where appropriate.

3.2.4.3 Approval to award a call-off contract under a Derbyshire County Council framework agreement must be obtained from the appropriate Strategic Director.

3.2.5 Protocol 4

3.2.5.1 Expenditure between £50,000 and the relevant OJEU threshold must be actioned in accordance with Protocol 4.

3.2.5.2 If a procurement is already included in the approved Departmental Service Plan, approval to award the Contract must be obtained from the appropriate Strategic Director. If the procurement is not in the approved Departmental Service Plan, approval to award the Contract must be obtained from the appropriate Cabinet Member.

3.2.6 Protocol 5 (A)

3.2.6.1 Protocol 5 (A) sets out the requirements for one-off purchases of up to £1,000. Where such purchases are to be made, Protocol 5 directs that one quotation is required.

3.2.6.2 Strategic Directors must authorise the transactions made pursuant to this Protocol.

3.2.6.3 Where appropriate, purchases are to be made using the Council's Debit Card in accordance with the Corporate Debit Card Policy.

3.2.7 Protocol 5 (B)

3.2.7.1 Protocol 5 (B) states that purchases of above £1,000 and up to £50,000 require a minimum of three written quotations, which shall be invited from suppliers considered competent to perform the contract. Where the Strategic Director considers that this is impractical or problematical, arrangements for inviting tenders or negotiating contracts under competitive

conditions shall be in accordance with procedures agreed with the Chief Financial Officer.

3.2.7.2 Consideration must be given to inviting quotations from local Derbyshire businesses where possible.

3.2.7.3 Strategic Directors are responsible under this Protocol for approving the award of purchases under this Protocol.

### 3.2.8 Protocol 6

3.2.8.1 Protocol 6 sets out the procurement and award procedure in respect of sole suppliers.

3.2.8.2 Wherever possible the Council should avoid procurement involving sole suppliers of goods, services or works and should only act in accordance with the Public Contract Regulations 2015.

3.2.8.3 Specifications should be written so as to allow as many as possible in the market to submit solutions to Council requirements without any artificial constraints. There are, however, times when for compatibility or market reasons one supplier is the only viable source of a service, component, or software or is in a unique supply position.

3.2.8.4 By reason of the risks inherent in a sole supplier relationship, a Business Case is required to be submitted to and approved by the Chief Financial Officer and Director of Legal Services, which justifies the use of a sole supplier. Where the use of such suppliers is above the relevant OJEU threshold, the award must be published in the OJEU, and if it is above £25,000 it must be published on Contracts Finder and on the Source Derbyshire website.

3.2.8.5 Depending on the value of the proposed contract with a sole supplier, approvals need to be sought from Cabinet, Cabinet Member or Strategic Director.

### 3.2.9 Protocol 7

3.2.9.1 Protocol 7 sets out the procurement and award procedure in relation to material changes.

3.2.9.2 The requirement to make material changes to contracts should be avoided, however, the need to make material changes during the term of the contract may occur, where new unforeseeable circumstances occur.

3.2.9.3 Material changes to existing contracts produce a risk of challenge and it is, therefore, necessary to produce a Business Case with risk assessment to seek approval from the Chief Financial Officer and the Director of Legal Services.

3.2.9.4 In making material changes to contracts, the Council should only act in accordance with regulation 72 of the Public Contract Regulations 2015.

3.2.9.5 Depending on the value of the contract, approvals need to be sought from Cabinet, Cabinet Member or Strategic Director.

3.2.9.6 For changes to contracts, where the total cost of the contract is above £25,000, a notice must be published on the Source Derbyshire website and on Contracts Finder. For changes to contracts above the applicable OJEU threshold, a notice must also be published on OJEU in accordance with the Public Contract Regulations 2015.

### 3.2.10 Protocol 8

3.2.10.1 Extensions to contracts beyond the originally awarded period or indicated spend fall within Protocol 8.

3.2.10.2 Such changes produce the risk of challenge and it is, therefore, necessary to produce a Business Case with risk assessment to seek approval from the Chief Financial Officer and the Director of Legal Services.

3.2.10.3 The Council should only act in accordance with the Public Contract Regulations 2015.

- 3.2.10.4 Depending on the value of the Contract, approvals need to be sought from Cabinet, Cabinet Member or Strategic Director.
- 3.2.10.5 For extensions to Contracts where the total cost of the Contract including the extension is above £25,000, a notice must be published on the Source Derbyshire website and on Contracts Finder. For changes to Contracts above the applicable OJEU threshold, a notice must also be published on OJEU in accordance with the Public Contract Regulations 2015.

### **3.3 Pre-Tender Market Testing**

- 3.3.1 Before commencing a procurement procedure, the Council may conduct market consultations with a view to preparing the procurement and informing contractors of its procurement plans and requirements.
- 3.3.2 Advice may be sought, for example, from independent experts, authorities and market participants etc. and such advice may be used in the planning and conduct of the procurement procedure provided that such advice does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.
- 3.3.3 Corporate Procurement should be contacted for further advice about pre-tender market engagement.

### **3.4 Invitation to Tender/Request for Quotations**

- 3.4.1 Invitations to tender and requests for quotations must be issued in accordance with these Standing Orders.
- 3.4.2 All invitations to tender must be issued through the Council's approved eTendering system.

- 3.4.3 Only in exceptional circumstances may a procurement process be conducted by alternative means to Standing Order 3.4.1 (for example, due to technical failure), and permission to conduct a procurement process by alternative means must be obtained from the Chief Financial Officer and the Director of Legal Services before the procurement process begins.
- 3.4.4 Tenders and quotations must be invited so as to give sufficient time for the market to respond to the requirement.
- 3.4.5 For all Contracts above the applicable OJEU threshold, the standard Selection Questionnaire (SQ) (see Procurement Connection website) must be used for multi-stage procurements and adapted for single stage procurements.
- 3.4.6 The Council is committed to minimising the burden on businesses and all tender documentation should be relevant, proportionate, appropriate to the goods, services or works required and in the standardised form located on Procurement Connection.
- 3.4.7 All tenders above the applicable OJEU threshold must conform to the requirements set out in the Public Contract Regulations 2015. The notice must be in the form prescribed by the Public Contract Regulations 2015. The electronic notice must be issued through the approved systems only.
- 3.4.8 The award of the Contract for tenders and quotations above £25,000 shall be disclosed on the Source Derbyshire website and Contracts Finder.

### **3.5 Clarification Questions**

- 3.5.1 Where details of a tenderer's bid are unclear, the Council may ask the tenderer for clarification of the submitted details. However, the nature of the questions asked can only be for clarification purposes and the

responses to the questions must not involve changes to the features of the tenderer's submission. The response to clarification questions must, therefore, simply clarify what has already been submitted as the bid.

- 3.5.2 Corporate Procurement should be contacted for further advice about clarification questions.

### **3.6 Submission, Receipt and Opening of Tenders/Quotations**

- 3.6.1 An invitation to tender shall state clearly the closing date and time for its receipt and that:

- (a) the Council does not bind itself to accept the lowest or any tender;
- (b) all tender submissions must be made through the "response" feature of the Council's approved eTendering system;
- (c) proof of posting will not be accepted as proof of delivery where a procurement process has been conducted via alternative means pursuant to Standing Order 3.4.2 and the tender or supplementary information fails to arrive at the address shown on the additional bid information label before the closing date and time for the receipt of hard copy tenders and supplementary information; and
- (d) only the electronic receipt issued within the Council's approved eTendering system will be accepted as proof of an electronic submission.

- 3.6.2 No tender shall be accepted if it is received after the closing date and time and shall be instantly rejected, except in the following circumstances:

- (a) where the delay in submission is the result of the electronic tendering system and this can be verified to be the case; or



- (b) where the late submission is the only submission received, it is compliant in every other respect and the approval of the Chief Financial Officer and the Director of Legal Services has been obtained to its consideration.
- 3.6.3 Any electronic tender submitted by any means other than through the Council's approved eTendering system will be deleted unread unless an alternative method to electronic tendering has been agreed pursuant to Standing Order 3.4.2.
- 3.6.4 Electronic tenders shall be kept within the secure area of the Council's approved eTendering system until the time and date specified for their opening.
- 3.6.5 Tenders received through the Council's approved eTendering system are subject to the electronic security protocols within that system, which require tenders to be opened electronically.
- 3.6.6 Where a procurement process has been conducted by alternative means pursuant to Standing Order 3.4.2 and hard copy tenders have been received, all tenders shall be opened at one time, which shall be as soon as possible after the closing date and time and only in the presence of three Officers appointed by the Director of Legal Services and those Officers shall date and certify a list of tenders received.

### **3.7 Evaluation Criteria**

- 3.7.1 In any procurement process, the successful tenderer must be the one that submits:
  - (a) the lowest price; or
  - (b) offers the most economically advantageous tender based on specific criteria that is linked to the subject matter of the contract

and can be used to demonstrate the most economically advantageous offer.

- 3.7.2 Examples of criteria used to identify the most economically advantageous offer include, but are not limited to: price, cost effectiveness, life cycle costs, quality, technical merit, capacity/availability to perform the contract, approach to continuous improvement etc.
- 3.7.3 All criteria must relate to the subject matter of the contract, be objectively quantifiable and align with the Council's corporate objectives.
- 3.7.4 These criteria should be assessed through either:
  - (a) Essential criteria – assessed on a compliant or pass basis/non-compliant or fail basis; or
  - (b) Technical criteria – assessed on a scored basis in accordance with a pre-set scoring matrix.
- 3.7.5 The procurement documentation must clearly set out the evaluation criteria and how the evaluation criteria will be applied. The procurement documentation must also set out the overall weightings to be attached to each of the criterion.
- 3.7.6 The evaluation of bids must be undertaken in accordance with the evaluation criteria detailed in the procurement documents provided to bidding organisations.

### **3.8 Post-Tender Negotiations**

- 3.8.1 Post-tender negotiations will only be undertaken in circumstances agreed by the Director of Legal Services and Chief Financial Officer. It

is essential that such negotiations are conducted professionally and with demonstrable probity.

- 3.8.2 Post-tender negotiations take place after the formal receipt of tenders and before the formal award of Contracts. The purpose is to secure some improvement in price, delivery or quality.

### **3.9 Selecting the Successful Contractor**

- 3.9.1 The successful contractor must be the contractor that has submitted the tender that has been objectively judged to be the best when evaluated against the criteria as required under Standing Order 3.7 or that has submitted the lowest quotation.

### **3.10 Financial Vetting of Contractors**

- 3.10.1 The financial vetting of contractors is an integral part of the procurement process and is designed to ensure that the contractor is financially able to perform the requirements imposed by the Contract. In the context of this process, financial vetting should form part of the selection criteria and be proportional to the financial and business risk of the Council alongside other qualitative and quantitative factors that can be grounds for selecting or rejecting a preferred supplier.
- 3.10.2 The financial vetting procedure is the responsibility of the Chief Financial Officer, and is distinct from the technical vetting of contractors which is the responsibility of appropriate technical and professional Officers.
- 3.10.3 Subject to 3.10.4, the financial vetting of contractors must be undertaken where the contract value exceeds the Supplies and Services OJEU Threshold. For the avoidance of doubt, the Supplies and Services OJEU Threshold applies to works contracts for the purposes of financial vetting.
- 3.10.4 It may also be considered necessary to carry out financial vetting:

- (a) if the Contract is considered to be high risk;
- (b) where there are contract variations, changes in financial status or market conditions etc. during the period of the Contract; or
- (c) where the Chief Financial Officer or the Director of Legal Services states that it is a requirement.

The Chief Financial Officer will provide specific guidance on when financial vetting should be undertaken.

### **3.11 Award of Contract**

- 3.11.1 The Council must notify the successful and unsuccessful bidders, in writing, of the outcome of a procurement process in accordance with the Public Contracts Regulations 2015.
- 3.11.2 Where the procurement is above the applicable OJEU threshold, the Council must observe a Standstill Period pursuant to the Public Contracts Regulations 2015.
- 3.11.3 A Contract must not be awarded before the expiry of the Standstill Period.
- 3.11.4 Authority to award Contracts must be obtained prior to the award of a Contract and such authority must be in accordance with Appendix A of these Standing Orders and the Council's Scheme of Delegation.

### **3.12 Debriefing Organisations**

- 3.12.1 Should you receive a debriefing request from a tenderer, please contact Corporate Procurement or Legal Services for advice.

## 4. CONTRACTS

### 4.1 Form of Contracts

4.1.1 Pursuant to The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001 the Council specifies that the following Contracts must be in writing:

4.1.1.1 any Contract above £1,000 awarded after a competitive process as determined in accordance with Standing Order 3 above (for the avoidance of doubt, competitive process does not include seeking quotations);

4.1.1.2 those Contracts that do not fall within 4.1.1.1 with a contract value greater than £50,000;

4.1.1.3 Any Contract specified by the Director of Legal Services or the Chief Financial Officer.

4.1.2 It is recommended that all other Contracts are in writing and, where they are not in writing, they must be evidenced in writing.

4.1.3 For the purposes of these Standing Orders, a Contract is in writing if all the terms agreed between the parties are set out in a document which is signed or sealed in accordance with these Standing Orders.

4.1.4 For the purposes of these Standing Orders, a Contract is evidenced in writing if all the terms agreed between the parties are set out in a number of documents that can be produced to prove the terms of the agreement.

- 4.1.5 Without prejudice to 4.1.1 above, the decision as to whether a Contract is evidenced in writing rather than in writing shall be the responsibility of the Strategic Director of each Directorate.

## 4.2 Content of Contracts

### 4.2.1 Every Contract shall:

- (a) be in a form approved by the Director of Legal Services;
- (b) specify the subject matter, price, contract period and such other terms as are agreed;
- (c) require compliance with any appropriate British Standard Specification or Code of Practice or other equal and approved European standard;
- (d) indemnify the Council against any claim which may be made in respect of personal injury to any person in circumstances where it is not due to the negligence of the Council;
- (e) indemnify the Council against any claim for damage to property due to the negligence of the contractor and include provision to ensure that the contractor has appropriate insurance in place to protect against such claims and that the contractor shall produce evidence of such insurance to the satisfaction of the Council when requested;
- (f) contain a clause permitting cancellation in circumstances of corruption, such clause having the same effect as that set out in Appendix B to these Standing Orders;
- (g) contain a clause prohibiting a contractor from endorsing its products by reference in any way to the Council, such clause having the same effect as that set out in Appendix C to these Standing Orders;

(h) contain a clause with acceptable levels of security in place with the effect of protecting the Council's data, including personal and special category data as defined by the Data Protection Act 2018, a model clause for which is available from Legal Services. These requirements are in line with the Council's information security management system, current data protection legislation and information security best practice.

#### **4.3 Contract Execution – Deed or Signature**

- 4.3.1 All Contracts in writing must be signed or sealed and dated (i.e. fully executed) before and not during or after the performance of the Contract and such signing, sealing and dating must be in accordance with these Standing Orders and the Council's Scheme of Delegation.
- 4.3.2 Pursuant to 4.1.1 above, all Contracts in writing must be signed unless the Director of Legal Services requires that they should be by deed or by law are required to be by deed.
- 4.3.3 The Council seal shall only be applied in the presence of the Director of Legal Services or some other person authorised by the Director of Legal Services who shall also attest the sealing and record particulars of the sealing in a book kept for the purpose.
- 4.3.4 Any Contract that falls within Standing Order 4.1.1 must be signed by two Senior Officers on behalf of the Council as follows:
  - (a) where Legal Services has been involved in the preparation and/or drafting of the contractual requirements, one of the signatures must be from a Senior Officer within Legal Services;
  - (b) where Legal Services has not been involved in the preparation and/or drafting of the contractual requirements, two signatures from Senior Officers within the Directorate responsible for the Contract;

(c) where specifically directed by the Director of Legal Services, in accordance with those directions. This is a legal requirement of The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001.

4.3.5 Any other Contract that does not fall within Standing Order 4.1.1 shall be signed by the relevant Officer in accordance with the Council's Scheme of Delegation.

4.3.6 A Contract shall only be signed or sealed and dated where the appropriate required authorities are in place.

#### **4.4 Council Terms & Conditions and Award Letter**

4.4.1 The Council's corporate Terms & Conditions for Goods & Services should be used as contractual terms for the purchase of goods and services where the value of the purchase is below the Supplies and Services OJEU Threshold.

4.4.2 The Council's corporate Terms & Conditions for Works should be used as contractual terms for the purchase of works that are below £50,000.

4.4.3 The Terms & Conditions for Goods and Services and the Terms & Conditions for Works must not be used for Contracts with a value higher than those set out in 4.4.1 or 4.4.2 above unless the consent of the Director of Legal Services has been obtained.

4.4.4 Where the Council's Terms & Conditions for Goods & Services or the Council's Terms & Conditions for Works are used, the appropriate Award Letter must be completed and signed by all contracting parties unless the purchase has been made using the Council's Order Form, in which case the Order Form must be processed in accordance with the Council's processing procedure.



- 4.4.5 A supplier's terms and conditions may only be used in exceptional circumstances and justification for using such terms and conditions must be evidenced in writing and approved by the relevant Strategic Director.

#### **4.5 Approved Lists**

- 4.5.1 Approved lists must not be used where they are prohibited under the Public Contracts Regulations 2015.

#### **4.6 Framework Agreements**

- 4.6.1 Framework agreements are agreements between the Council and one or more suppliers for the provision of goods, services or works.
- 4.6.2 The term of a framework agreement must not exceed four years, except where:
- (a) a longer period is permitted under the light touch regime pursuant to Part 2, Chapter 3 of the Public Contracts Regulations 2015; or
  - (b) where exceptional circumstances justify a longer duration, as provided for in regulation 33(3) of the Public Contracts Regulations 2015.
- 4.6.3 Where a Derbyshire County Council framework agreement is used, the framework agreement must be approved at Strategic Director level where the procurement is already approved in the Departmental Service Plan and, where it is not already approved in the Departmental Service Plan, it must be approved by Cabinet Member or Cabinet, depending on value.
- 4.6.4 Any call-off under a Derbyshire County Council framework agreement must be undertaken in accordance with the terms of the framework agreement and the award of the call-off contract must be approved at Strategic Director level.

- 4.6.5 The use of national, regional, sub-regional, consortium or other non-Derbyshire County Council framework agreements shall only be permitted after the submission and approval of a Business Case to the Chief Financial Officer and the Director of Legal Services. The Business Case must clearly identify the benefits to be gained, the legality of the framework agreement, the terms associated with any purchases made and the justification for not making the work available under a new tender. The two Business Case templates are available on Procurement Connection.
- 4.6.6 Where the contract value is below £50,000 or it is already approved in the Departmental Service Plan, approval to award a non-Derbyshire County Council framework agreement must be obtained from the relevant Strategic Director. Where procurements are not approved in the Departmental Services Plan, Cabinet Member or Cabinet approval (as appropriate) must be obtained in order to award the framework agreement. Approval to award a call-off must be obtained from the relevant Strategic Director.

## **4.7 Corporate Contracts**

- 4.7.1 Where Council approved corporate Contracts are already in place, which have been procured in such a way that the requirements to be purchased were identified at both the advertising and specification stages, the corporate Contracts should be used and no further competitive process is required. The Chief Financial Officer will contract for all identified corporate and generic needs or will endorse Departmental or sub-Departmental level Contracts where they can be utilised by other Departments and sections.

## **4.8 External Body Grant Funding**

- 4.8.1 Where grant money is received by the Council to fund the provision of works, goods or services under a Contract, then these Standing Orders shall apply in full. However, where the Council administers grant money on the funding body's behalf, these Standing Orders may not apply and advice should be sought from Legal Services as to their applicability.
- 4.8.2 Where the funding body has attached grant conditions to the grant, care must be taken to ensure that any relevant grant requirements are appropriately captured in any Contracts between the Council and the eventual grant recipient.
- 4.8.3 Where grant conditions are attached that make compliance with these Standing Orders unachievable, the Director of Legal Services shall advise accordingly.
- 4.8.4 For advice about whether these Standing Orders apply to a grant, please contact Legal Services.

## **4.9 Contract Management**

- 4.9.1 All Contracts must be contract managed to ensure that the Contract is carried out in accordance with its terms and conditions.
- 4.9.2 It is the responsibility of each Strategic Director to ensure that appropriate contract management arrangements are put in place that are proportionate to any given Contract.
- 4.9.3 All Departments shall hold a register of all Contracts, in a standard format issued by the Chief Financial Officer, which they shall update monthly, in line with the Local Government Transparency Code. All

Contracts above £5,000 shall be reported to the Chief Financial Officer on a monthly basis.

- 4.9.4 Where possible, Contracts shall be identified on the Council's financial system to allow electronic ordering and to assist Officers in identifying approved Contracts.

## APPENDIX A – Procurement and Award Procedure - Protocols

|                     | Spend Type  | Process Required   | Advertising Required                                 | Contracting Requirements                                      | Award of Contract   | Publication of Award  | Inclusion on SAP                             |
|---------------------|---|--|--|---|---|---|--|
| Protocol 1          | All contracts above OJEU, excluding non-DCC Frameworks                          | Tender through the Council's approved eTendering system  | OJEU, Contracts Finder and Source Derbyshire website | Contract approved by Director of Legal Services               | Procurements approved in the Departmental Service Plan:<br><br>Strategic Director<br><br>Procurements not approved in the Departmental Service Plan:<br><br>OJEU to £500,000<br>Cabinet Member<br><br>Above £500,000<br>Cabinet                           | OJEU, Contracts Finder, Source Derbyshire website and Departmental Contract Register  | MD4, published catalogue and contract detail |
| Protocol 2<br>A & B | (A)<br><br>Permission to use a non-DCC Framework                                | i) As set out in the Framework documents and<br>ii) Submission of Business Case to Chief Financial Officer and Director of Legal Services for approval | None   | Approval of Framework documents by Director of Legal Services | Procurements approved in the Departmental Service Plan or below £50,000:<br><br>Strategic Director<br><br>Procurements not approved in the Departmental Service Plan:<br><br>Above £50,000 to £500,000<br>Cabinet Member<br><br>Above £500,000<br>Cabinet | None  | None   |
|                     | (B)<br><br>Call-off from a non-DCC Framework (established under Protocol 2 (A)) | Call-off as set out in the Framework documents   | None   | Approval of call-off terms by Director of Legal Services      | Strategic Director  | £25,000 and above on OJEU (if above the OJEU threshold), Contracts Finder, Source Derbyshire website and Departmental Contract Register | MD4, published catalogue and contract detail |

|                         | Spend Type  | Process Required   | Advertising Required  | Contracting Requirements  | Award of Contract  | Publication of Award  | Inclusion on SAP                             |
|-------------------------|---|--|---|---|--|---|--|
| Protocol 3              | Call-off from a DCC Framework (established under Protocol 1 or 4) | Call-off as set out in the Framework documents   | None  | Approval of call-off terms by Director of Legal Services                    | Strategic Director   | £25,000 and above on OJEU (if above the OJEU threshold), Contracts Finder, Source Derbyshire website and Departmental Contract Register | MD4, published catalogue and contract detail |
| Protocol 4              | £50,000 to OJEU threshold   | Tender through the Council's approved eTendering system  | Source Derbyshire website and for above £25,000 on Contracts Finder | The Council's Terms and Conditions or other form of contract as appropriate | Procurements approved in the Departmental Service Plan:<br><br>Strategic Director<br><br>Procurements not approved in the Departmental Service Plan:<br><br>Cabinet Member | £25,000 and above on Contracts Finder, Source Derbyshire website and Departmental Contract Register                                     | MD4, published catalogue and contract detail |
| Protocol 5<br><br>A & B | (A)<br><br>Quotation up to £1,000                                 | Minimum of 1 quotation   | None  | The Council's Terms and Conditions or other form of contract as appropriate | Strategic Director   | None  | Council debit card or MD4                    |
|                         | (B)<br><br>Quotation above £1,000 to £50,000                      | Minimum of 3 written quotations  | None  | The Council's Terms and Conditions or other form of contract as appropriate | Strategic Director   | £25,000 and above on Contracts Finder and Source Derbyshire website   | MD4  |
| Protocol 6              | Sole Supplier   | Submission of Business Case to Chief Financial Officer and Director of Legal Services for approval | None  | Contract approved by Director of Legal Services                             | Up to OJEU threshold:<br>Strategic Director<br>Above OJEU threshold to £500,000:<br>Cabinet Member<br>Above £500,000:<br>Cabinet   | £25,000 and above on OJEU (if above the OJEU threshold), Contracts Finder, Source Derbyshire website and Departmental Contract Register | MD4, published catalogue and contract detail |

|            | <b>Spend Type</b>  | <b>Process Required</b>  | <b>Advertising Required</b> | <b>Contracting Requirements</b>                 | <b>Award of Contract</b>  | <b>Publication of Award</b>   | <b>Inclusion on SAP</b>               |
|------------|--|--|-----------------------------|---|---|---|---------------------------------------|
| Protocol 7 | Material Changes to Contracts  | Submission of Business Case to Chief Financial Officer and Director of Legal Services for approval | None                        | Contract approved by Director of Legal Services | Up to OJEU threshold:<br>Strategic Director<br>Above OJEU threshold to £500,000:<br>Cabinet Member<br>Above £500,000: Cabinet | £25,000 and above on OJEU (if above the OJEU threshold), Contracts Finder, Source Derbyshire website and Departmental Contract Register | Update of catalogue and contract data |
| Protocol 8 | Extensions of Contract beyond originally awarded period or indicated spend | Submission of Business Case to Chief Financial Officer and Director of Legal Services for approval | None                        | Contract approved by Director of Legal Services | Up to OJEU threshold:<br>Strategic Director<br>Above OJEU threshold to £500,000:<br>Cabinet Member<br>Above £500,000: Cabinet | £25,000 and above on OJEU (if above the OJEU threshold), Contracts Finder, Source Derbyshire website and Departmental Contract Register | Update of contract data               |

## **APPENDIX B – Bribery, Corruption and Fraud Clause**

1. The Council may terminate this contract by written notice with immediate effect and recover from the contractor all losses resulting from such termination, if the contractor, or any of its employees, agents or subcontractors (in all cases whether or not acting with the contractor's knowledge):
  - (a) directly or indirectly offers, promises or gives any person working for or engaged by the Council a financial or other advantage to:
    - I. induce that person to perform improperly a relevant function or activity;
    - II. reward that person for improper performance of a relevant function or activity;
  - (b) directly or indirectly requests, agrees to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this contract;
  - (c) commits any offence:
    - I. under Section 117(2) of the Local Government Act 1972;
    - II. under the Bribery Act 2010;
    - III. under the Fraud Act 2006 and legislation creating offences concerning fraudulent acts;
    - IV. at common law concerning fraudulent acts relating to this contract or any other contract with the Council; or
    - V. defrauds, attempts to defraud or conspires to defraud the Council.

## **APPENDIX C – Endorsement Clause**

1. The award of this Contract shall not entitle the contractor to endorse its products by reference in any way to the Council nor shall the contractor exhibit or display for advertisement or otherwise any goods, equipment or vehicles to be supplied under the Contract to the Council and which can be identified with the Council (whether the property in such goods, equipment or vehicles shall have passed to the Council or not) without the written consent of the Council