

## **REPORT OF THE LEADER OF THE COUNCIL**

### **CHANGE TO GOVERNANCE ARRANGEMENTS**

#### **Purpose of the Report**

1. To agree further constitutional changes required in order to operate a committee system of governance from 17 May 2012.

#### **Information and Advice**

2. The Localism Act permits councils to return to a committee system. This form of governance is the most democratic form of decision-making for the Authority. It enables all Councillors to be involved in decision-making and gain an experience of the areas covered by the committees on which they serve. Committees rather than individuals will make all decisions, except for day-to-day operational decisions which will continue to be made by officers. For the public, the committee system is more transparent as it is clear who is taking the decisions, with the papers being publicly available in advance.
3. At its meeting of 29 March 2012 the County Council made a resolution to adopt a committee system of governance with effect from 17 May 2012 and to cease operating Leader/Cabinet Executive arrangements from that date. Appropriate notices were placed in local newspapers concerning these changes as required by the legislation.
4. At the last meeting Full Council approved key changes to the Council's Constitution. The balance of the changes required, referred to as 'Phase 2' changes in that report, are now attached at **Appendix A**. These are as follows:-
  - a. Financial Regulations
  - b. Employment Procedure Rules
  - c. Access to Information and Meetings
  - d. Policy Framework
  - e. Budget Framework
  - f. Protocol for involvement in Outside Bodies
  - g. Protocol for Councillor/Officer relationships
  - h. Officer Code of Conduct
  - i. Travel and Accommodation Policy
5. A small number of changes are proposed to the procedure rules for Council, committees and sub-committees which were agreed at the last meeting as part of Phase 1 of the Constitution. These are in relation to the number of Members needed to call a special meeting of Full Council; questions to committee chairmen; order of business of committees and the

Personnel Committee. Details are shown in **Appendix B** and the changes are shown in bold.

6. The Financial Regulations have been amended to ensure they reflect the new arrangements. It is intended that a more thorough review be undertaken and a revised version will be brought to a future meeting of Full Council for consideration. In the meantime it is proposed that any interpretation issues or conflicts with other parts of the Constitution will be resolved by the Chief Finance Officer in consultation with the Monitoring Officer. As a result of the new arrangements the existing Portfolio Holder budgets will be reallocated in accordance with the Terms of Reference of the new committees.
7. The Council's Petitions Scheme has been reviewed in light of changes to the legal requirements for schemes, and to ensure it is consistent with the revised Constitution. Authorities now have the freedom to develop their own arrangements for petitions and it is proposed to take advantage of this opportunity. The proposed revised Scheme is attached at **Appendix C** to this report.
8. Council approved terms of reference for meetings of Full Council on 29 March, however regulations were awaited at that time regarding which matters should be reserved to Full Council for decision. Regulations have now been issued and the revised terms of reference are attached at **Appendix D** to this report. The amendments are shown in bold.
9. Since the last meeting it is proposed that a change be made to the terms of reference of some committees/sub-committees. At that time the terms of reference of the Health Scrutiny Committee were not included. Details of proposals on these are as follows.

#### **Grant Aid Sub-Committee**

At the last meeting Council agreed that the terms of reference of the Grant Aid Sub-Committee should be to have responsibility for grant aid to the voluntary sector. It is felt that this is too prescriptive and it is now proposed that it be changed to have responsibility for grant aid as defined in the grant aid strategy.

#### **Health Scrutiny Committee**

At the last meeting it was proposed that a Health Scrutiny Committee be established to complement the Joint City/ County Health Scrutiny Committee and cover the rest of the county. This Committee will be responsible for scrutinising health matters in the areas covered by the Clinical Commissioning Groups for Bassetlaw, Mansfield, Ashfield and Newark and Sherwood. It will be able to scrutinise topics of its choice which fall within its remit and make evidence based recommendations to improve and develop proposals for the benefit of local communities. The membership of the Committee is dealt with elsewhere in the agenda.

#### **Policy Committee**

That the following responsibilities be added to the terms of reference:-

1. Responsibility for the Council's Improvement Programme
2. Responsibility for Legal Services

That the responsibility for resolving any issues arising from the Members' Allowances Scheme be transferred to the Administration Committee.

### **Rights of Way Committee**

That the following responsibility be added to the terms of reference:-

Responsibility for discharging the Council's regulatory powers relating to:

non-statutory public access routes  
land management agreements  
permissive paths

10. The requirements for the Members' Code of Conduct will be subject to change in the near future. The current arrangements will therefore be retained in the Constitution for the time being. A separate report will be brought to Full Council regarding future arrangements in relation to Councillor conduct issues as soon as possible.
11. Since the last meeting of Full Council, there have been some changes to the management structure within the Authority. The Scheme of Delegation to Officers that was approved at the last meeting has been amended to reflect these changes.
12. The complete revised Constitution will be published on the Council website as soon as possible. The document is substantially shorter and more concise than the current version, and as a result should be more user-friendly.
13. It is intended to review the new arrangements in full after 6 months of operation, and to bring a further report to Full Council.

### **Other Options Considered**

14. Council could make amendments to the proposed Constitution; however it must adopt a Constitution that will enable a committee system to operate effectively from the date of the meeting.

### **Reason for Recommendations**

15. To ensure a committee system operates effectively from 17th May 2012.

### **Statutory and Policy Implications**

16. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## Human Resources Implications

17. The Employment Procedure Rules, Code of Conduct for Officers and Protocol for Councillor/Officer relationships have been subject to consultation with the unions.

## RECOMMENDATIONS

- 1) That the following parts of the Constitution as set out in **Appendix A** be approved to operate with effect from 17 May 2012: -
  - a) Financial Regulations
  - b) Employment Procedure Rules
  - c) Access to Information and Meetings
  - d) Policy Framework
  - e) Budget Framework
  - f) Protocol for Involvement in Outside Bodies
  - g) Protocol for Councillor/Officer relationships
  - h) Officer Code of Conduct
  - i) Travel and Accommodation Policy
- 2) That the amendments to the procedure rules for Full Council in relation to the number of Members needed to call a special meeting of Full Council; questions to committee Chairmen; and the procedure rules for committees and sub-committees in relation to the order of business of committees and the Personnel Committee be agreed as set out in **Appendix B**.
- 3) That any interpretation issues or conflicts between the Financial Regulations and other parts of the Constitution be resolved by the Chief Finance Officer in consultation with the Monitoring Officer.
- 4) That the Petitions Scheme set out in **Appendix C** be adopted.
- 5) That the list of matters reserved to Full Council for decision set out in **Appendix D** be approved.
- 6) That it be noted that the Constitution has been revised to reflect the recent changes to the Council's management structure.
- 7) That the terms of reference of the Grant Aid Sub-Committee be amended to have responsibility for grant aid as defined in the grant aid strategy.
- 8) That the terms of reference of the Health Scrutiny Committee be amended to have responsibility for scrutinising health matters in the areas covered by the NHS Clinical Commissioning Groups for Bassetlaw, Mansfield, Ashfield and Newark and Sherwood.
- 9) That the terms of reference of the Policy Committee and the Administration Committee be amended as set out in the report.
- 10) That the terms of reference of the Rights of Way Committee be amended as set out in the report.

**Councillor Kay Cutts  
Leader of the Council**

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**Constitutional Comments (JFW 03/05/12)**

18. It is within the functions reserved to the County Council to decide the issues set out in this report

**Financial Comments (MB 09/05/12)**

19. There are no specific financial implications arising from the report.

**Background Papers**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

The County Council reports of 26 January 2012 and 29 March 2012 are published on its website.

Constitution up to 17 May 2012, published on the Council's website

**Electoral Division(s) and Member(s) Affected**

All



## **APPENDIX A**

### **FINANCIAL REGULATIONS**

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## 1. OVERVIEW

- 1.1 These Financial Regulations provide the framework of financial control and standards necessary to achieve the proper administration of the Council's financial affairs and are designed to safeguard the interests of both the Council and its employees. These Regulations cover the Council's main activities, its Trading Organisations and Pension Funds, and partnerships where the Council acts as the lead authority or where it acts as the accountable body.
- 1.2 A key objective of these regulations is to ensure that the Authority provides services to its users and the community in accordance with best value legislation. The regulations are designed to support Corporate Directors in achieving this aim whilst working within a framework of the principles of best value. Under the former Compulsory Competitive Tendering (CCT) system, value for money was generally proven by following a tendering procedure and awarding the contract to the lowest tenderer. However, in addition to cost, best value requires that the principles of integration, quality, partnering, innovation, performance management, and customer focus are also taken into account as well as the achievement of corporate objectives such as sustainability and social cohesion.
- 1.3 All projects should be managed in accordance with the principles of good project management. Projects **over £250,000** should be managed and delivered using best practice Project Management techniques e.g. PRINCE2. Where significant risks have been identified, they should be included in the Corporate Risk Register and addressed in accordance with the Authority's Risk Management strategy.
- 1.4 For the purpose of Section 151 of the Local Government Act 1972, the Service Director Finance and Procurement is the appointed Section 151 Officer for the Authority. The postholder is responsible for the proper administration of the Council's financial affairs and, subject to the Constitution and any resolutions of any Committee or the Full Council, may do all things necessary for the administration of the Council's financial affairs.
- 1.5 Where the Section 151 Officer considers that there is a likelihood of a significant overall overspending, or a significant overspending on a Committee budget, a report will be taken to Council, in accordance with Section 114 of the Local Government Finance Act 1988.
- 1.6 As the Council's financial and economic advisor, the Section 151 Officer will prepare a budget showing the sources of income and proposed expenditure in each financial year and will keep the Finance and Property Committee informed of the Council's overall financial performance, compared with the approved budget(s). The information required and the frequency of reporting will be determined by the Finance and Property Committee.
- 1.7 The Section 151 Officer, after consulting with the Group Manager for Legal Services, may vary, waive or suspend any regulation. Requests to waive Financial Regulations should be submitted in accordance with the approved waiver request procedure.
- 1.8 Where reference is made in these regulations to specific officers, they may nominate other officers to act on their behalf provided that they keep appropriate up-to-date written records of the nominated officers and the limits to their delegated powers.

- 1.9 Corporate Directors are responsible for ensuring that employees in their departments are aware of, and comply with these Financial Regulations and that failure to comply may result in disciplinary action.
- 1.10 Corporate Directors must consult the Section 151 Officer on any matter which is liable to affect the finances of the Council before any provision or other commitment is incurred or before reporting to the Finance and Property Committee. The Section 151 Officer has the right to be represented at meetings with partnerships or outside bodies where matters of major financial significance are to be discussed.
- 1.11 Each Corporate Director and each Committee is responsible for the observance of Financial Regulations and Codes of Procedures, and for compliance with the decision making process defined in the Constitution.
- 1.12 The Section 151 Officer shall add any financial comments, as thought fit, to reports being submitted to Committee or Council regarding the financial consequences of any proposed action. These comments may include the sufficiency of the budget to finance the proposals being made or set out the action to be taken to make the necessary finance available. All reports will have a Section 151 Officer financial comment. These reports must be submitted to the Section 151 Officer or his/her representative, at least 5 working days before the distribution of papers.
- 1.13 If there is a conflict between the Council's Financial Regulations and other specific County Council regulations or codes of procedure, these Financial Regulations shall prevail.
- 1.14 The Freedom of Information Act 2000 requires the Council to meet standards of openness and transparency with respect to access to all of the information it holds. The Council has an Information Management Policy which should be followed. Particular issues are also addressed in section 6 and section 9 of these regulations. Further guidance is available on the intranet and in the Contracts Manual.

## **2. FINANCIAL PLANNING AND BUDGETARY CONTROL**

- 2.1 In February of each year, Full Council will approve an annual revenue budget, capital programme, Medium Term Financial Strategy and Council Tax Precept.
- 2.2 Each Member of the Council must be provided with a copy of the budget proposals together with a statement by the Section 151 Officer of the effect on the Council's finances and the precept to be levied at least seven days before the Meeting of the Full Council at which such matters will be considered.
- 2.3 It is the responsibility of all Committees, in consultation with the relevant Corporate Directors, to monitor and control the budgets approved for the year.
- 2.4 Amounts provided under each heading of the approved annual revenue estimates must not be diverted to other purposes except as allowed by Financial Regulations.
- 2.5 The inclusion of items in the approved revenue estimates constitutes authority to incur expenditure, subject to the regulations for procurement of Goods, Services and Works, except where the Council, Committee or Financial Regulations of the Council has placed a restriction on any item. Where items cannot be identified from the approved revenue

estimates, authority for expenditure on those items must be obtained from the appropriate decision making body within the Council depending on the amount.

- 2.6 Where external funding is available to cover additional revenue expenditure, Corporate Directors must obtain the approval of Finance and Property Committee for the additional expenditure.
- 2.7 Where expenditure is required on items not included within the approved budget, and which cannot be funded within the regulations for virement Corporate Directors must obtain approval from the Finance and Property Committee.
- 2.8 Capital expenditure is not authorised until the necessary regulations have been complied with and a business case accepted by Finance and Property Committee and/or Policy Committee.
- 2.9 Where a Committee wishes to take a course of action which has financial implications contrary to the advice provided by the Section 151 Officer, the Section 151 Officer may submit a report to this effect to Policy Committee.
- 2.10 The Section 151 Officer must submit a report to the Full Council on each year's final accounts as soon as practicable, and in accordance with the statutory Accounts and Audit Regulations.

### **3. REVENUE EXPENDITURE**

#### **3.1 Preparation of Revenue Budgets**

- 3.1.1 Revenue budgets must be prepared within the Budget and Policy Framework and the resource allocation limits prescribed by the Council.
- 3.1.2 Detailed annual revenue budgets must be prepared in accordance with all instructions on budgeting issued by the Section 151 Officer. It is the responsibility of Corporate Directors to ensure that detailed budget preparation takes place, that the amounts included are realistic, and that there has been correct application of budget conventions and procedures for their service.
- 3.1.3 Where there is uncertainty about the proper approach to be adopted in preparing a budget, guidance should be sought from the Section 151 Officer.
- 3.1.4 The Section 151 Officer will, during the year, seek approval from Finance and Property Committee for allocations from the General Contingency approved by Council.
- 3.1.5 Where external income arises from a set scale of charges, fees etc., the Corporate Director must review the level of fees at least once a year in consultation with the Section 151 Officer. Revised fees must be agreed by the relevant Committee.

## 3.2 Control of Revenue Budget

- 3.2.1 Corporate Directors and Committees are responsible for controlling expenditure within approved budgets. To assist them with this, virement of budget provision from one budget head to another may be permitted.
- 3.2.2 Variation between any budget head and actual expenditure or income which cannot be covered within the rules for virement must be reported to the Finance and Property Committee after consultation with the Department's Corporate Director and the Section 151 Officer.
- 3.2.3 Where new policies or significant variations to existing policies or practices are proposed, a report must be presented to Policy Committee providing details of the financial implications of the proposed policies for the current year and two further years.
- 3.2.4 A Corporate Director's authority to incur expenditure, for which provision has been made in the detailed annual revenue budget and which is in accordance with Council policies, is subject to the procurement regulations and the conditions below.

## 3.3 Special Items

### 1. Use of Consultants, Individuals as Contractors and Special Advisors

- 3.3.1.1 Unless prior approval has been obtained from Policy Committee to engage consultants (e.g. as part of an approved capital programme), the following regulations apply in addition to the normal procurement rules:-
- 3.3.1.2 Corporate Directors may employ consultants, individuals as contractors or specialist advisors provided that there is sufficient budget provision and an annual report is made to the Policy Committee on the use of this discretion.
- 3.3.1.3 If the estimated value of the contract is **over £50,000** prior approval must be obtained from the Chief Executive and the Section 151 Officer. Requests for approval must be submitted on the approved form. (NB Regardless of value, all consultants must be procured in accordance with procurement procedures.)
- 3.3.1.4 Where contracts need to be extended and the total value of the whole contract will **exceed £50,000**, further permission must be obtained from the Chief Executive and the Section 151 Officer before the contract is extended.
- 3.3.1.5 When employing individuals as consultants, contractors or specialist advisors, Corporate Directors must determine whether the nature of their employment is 'Employed' or 'Self Employed' as set out in the guidance note IR56 issued by HM Revenue and Customs. The Authority has produced some guidance and a form to help with this assessment. If a Consultant or Contractor is deemed to be

## 2. Leases

3.3.1.6 All leases or credit arrangements **over £6,000** which are not for Land and Buildings must be approved by the Section 151 Officer before they are entered into.

3.3.1.7 For leases of Land and Buildings, separate regulations must be followed.

## 3. Grants to External Bodies

3.3.3.1 Grant aid as defined in the grant aid strategy must be approved by the Grant Aid Sub-Committee.

## 4. Loans to External Bodies

3.3.1.8 All proposals for loans to individuals or outside bodies should be accompanied by an appropriate risk assessment. Loans to individuals or outside bodies must be approved by Policy Committee.

## 5. State Aid

3.3.1.9 State Aid is financial aid or other advantage to business from a Member State of the EU which meets all the criteria in Article 87(1) of the EC Treaty. State Aid, which could distort competition and affect trade by favouring certain undertakings or the production of certain goods, is incompatible with the common market unless there is special provision for it within the EC Treaty (usually through certain types of block exemption).

3.3.1.10 There are four characteristics of State Aid:

3.3.1.10.1 **it is granted through the State or through State resources** (including public funds administered through Local Authorities);

3.3.1.10.2 **it favours certain undertakings or production of certain goods** – ie by conferring an advantage to an entity engaged in economic activity (which can include voluntary and non profit making public or private bodies when they engage in activities which have commercial competitors);

3.3.1.10.3 **it distorts or threatens to distort competition** by actually or potentially strengthening the position of the recipient in relation to competitors. Virtually all selective aid will have this potential regardless of the scale of the potential distortion;

3.3.1.10.4 **it affects trade between Member States.** Most products or services are traded between Member States, therefore, almost any selective aid for business activities is capable of affecting trade between States, even if the business itself does not trade directly with Member States.

3.3.1.11 State Aid can take many forms including grants, subsidies, preferential interest rates, loans with preferential terms, acquisition of land either gratuitously or on favourable terms, provision of goods or services on favourable terms, reimbursement of costs in the event of success, capital transfers and many other actions. Some forms of public private partnerships and contracts are not open to competitive tendering.

3.3.1.12 The rules on State Aid are lengthy and complex and therefore if there is any concern about activities or proposals possibly contravening these rules then specific advice on the circumstances should be sought from Legal Services. See the state aid website.

### 3.4 Virement

3.4.1 The transfer of budget provision from one budget head to another is permitted as follows:

a. **up to £50,000** (£100,000 within the Highways Maintenance budget) within a Committee's revenue budget - by a Corporate Director and the Section 151 Officer;

3.4.1.1 **up to £200,000** within a Committee's revenue budget – by the Finance and Property Committee;

3.4.1.2 **up to £200,000** between the revenue budgets of two or more committees - with the agreement of both or all the relevant committees and the Finance and Property Committee;

3.4.1.3 **over £200,000** within or between the revenue budgets of Committees - by the Finance and Property Committee.

3.4.2 Where the Section 151 Officer considers that any proposed virement causes a variation to existing policy, s/he may require the Corporate Director to present a report to Policy Committee setting out the reasons for the virement.

3.4.3 A Corporate Director may incur expenditure which is essential to meet any immediate needs created by a sudden emergency, subject to this action being reported immediately to the Chief Executive and the Section 151 Officer, and to the next Finance and Property Committee.

3.4.4 When a sudden emergency arises, Corporate Directors must keep a separate record of the essential expenditure incurred in connection with the emergency

### **3.5 Monitoring of the Revenue Budget**

- 3.5.1 Corporate Directors must ensure that budgets are monitored via the Council's Business Management System. Corporate Directors will report at least quarterly to the relevant Committee and Finance and Property Committee regarding the actual income and expenditure compared with the budget. Explanations of significant variations must be made available to the Section 151 Officer when requested, together with proposals for avoiding any continuing budget problems.
- 3.5.2 Each Corporate Director, in conjunction with the Section 151 Officer, must prepare an annual report for the relevant Committee and Finance and Property Committee comparing actual expenditure for the year with the revenue budget. Explanations for significant variations must be provided by the Corporate Director.
- 3.5.3 The Section 151 Officer must prepare an annual report to Full Council for all budgets, comparing the actual expenditure for the year with the agreed revised estimate for the year and explanations of significant variations. Budgets may be carried forward to the following year after consideration by Finance and Property Committee and approval by Council. Other reserves may be created from budget underspending for specific purposes, subject to approval by Finance and Property Committee.
- 3.5.4 The annual surpluses and deficits of Trading Organisations will be carried forward in an 'Earmarked Reserve'. The level of these reserves will be kept under review by the Section 151 Officer and reported annually to Finance and Property Committee.

## **4. CAPITAL EXPENDITURE AND OTHER MAJOR PROJECTS**

### **4.1 Management of Projects**

- 4.1.1 All projects will be managed using a best practice project management methodology eg PRINCE2 by suitably experienced project managers with project reviews at key milestones which meet Gateway Review standards.

### **4.2 Inclusion of schemes in the Capital Programme**

- 4.2.1 Schemes can be added to the Capital Programme by:
  - 4.2.1.1 the Annual Review Process that culminates in the approval of the County Council's budget each February; or
  - 4.2.1.2 decisions taken during the year on an ad-hoc basis where the schemes are fully funded from external sources; or
  - 4.2.1.3 decisions taken during the year on an ad-hoc basis where additional County Council funds are required.

The processes are shown schematically in the attached decision tree.

- 4.2.2 All proposed schemes, or programmes of work, should include a business case appraisal which has been carried out before detailed design work begins, and, where appropriate, the full lifecycle costs of the investment and the impact on future budgets.
- 4.2.3 The options appraisal report should include:
  - 4.2.3.1 how each scheme, or programme of work, relates to the approved Council objectives and what other options have been considered, what consultation has been undertaken and what the anticipated outcomes are;
  - 4.2.3.2 the estimated capital costs;
  - 4.2.3.3 the estimated revenue costs for each of the first three years of the scheme or programme of work, including the eventual revenue costs for a full year of operating the scheme or programme of work.
- 4.2.4 All proposals for capital expenditure that require additional resources to be found by the County Council should be considered initially by the Corporate Asset Management Group (CAMG) who will advise on the relative priority of future capital schemes, in accordance with the agreed prioritisation criteria within the Capital Strategy. Approval must then be obtained as follows:
  - 4.2.4.1 for schemes being considered through the Annual Review process, CAMG will make recommendations to the Member Reference Group who, in turn, will make recommendations to the Corporate Leadership Team (CLT). CLT will then make their recommendations to Policy Committee for approval;
  - 4.2.4.2 for schemes arising during the budget year on an ad-hoc basis, CAMG will consider and advise the Member Reference Group who, in turn, will advise and seek approval from Policy Committee.
- 4.2.5 The outcome of the Annual Review process is the capital programme approved by Council which includes the schemes approved for the forthcoming financial year and the two following years.
- 4.2.6 Where proposals are made for additional schemes during the year, or for cost variations to existing schemes, decisions can be taken as follows:
  - 4.2.6.1 schemes, or variation increases, **up to £250,000** by the Section 151 Officer after consultation with the Chairman of the Finance and Property Committee;
  - 4.2.6.2 schemes, or variation increases, **over £250,000 and up to £2 million** by Finance and Property Committee;
  - 4.2.6.3 schemes, or variation increases, **over £2 million** by Council.

- 4.2.7 After approvals have been obtained, Latest Estimated Cost (LEC) reports should be prepared and presented before tenders are sought.
- 4.2.8 All schemes with an estimated cost **over £7.5 million** are subject to the following additional requirements:
  - 4.2.8.1 a report on alternative design proposals is taken to Finance and Property Committee;
  - 4.2.8.2 no detailed design work is undertaken prior to the report being approved.
- 4.2.9 Where major projects are being procured through a ‘Private Finance Initiative’ (PFI) or ‘Public Private Partnership’ (PPP), an options appraisal report should be prepared and approval must be obtained from Council before bids are invited.

**4.3 Content of Bids for Capital Expenditure**

- 4.3.1 All bids for capital expenditure must be prepared by Corporate Directors in the form laid down by the Section 151 Officer.
- 4.3.2 The advice of an appropriate technical officer must always be sought before a scheme is included in any capital programme. The appropriate technical officers are shown below:

Area of Activity	Technical Officer
Building, Construction and associated works	Service Director, Transport, Property and Environment
Civil Engineering works	Corporate Director, Environment and Resources
Computer technology	Service Director, ICT
Expenditure over £100,000 relating to the management of Council Land, Building and Property	Service Director, Transport, Property and Environment
Change of use of land, buildings or property	Service Director, Transport, Property and Environment
New or replacement land, buildings or property	Service Director, Transport, Property and Environment

- 4.3.3 Construction schemes should not normally be included in the first year of a capital programme unless the following criteria have been considered and the risks evaluated:
  - 4.3.3.1 purchase, lease or lease option of the land or property has been completed. In the case of transportation and land reclamation projects, a right of entry should have been obtained;

- 4.3.3.2 outline planning permission should have been obtained, where appropriate, especially if the development involves a change of use or is a new development;
  - 4.3.3.3 the sources of funding, including any grants or contributions from outside organisations, have been finalised - except for land reclamation projects where grant notification is not normally received until the year of the project;
  - 4.3.3.4 the service department has prepared a detailed brief for the project which has been agreed with the relevant technical officer who will carry out the design;
  - 4.3.3.5 the Service Director, Transport, Property and Environment has confirmed that the proposal complies with Corporate Property Policies;
  - 4.3.3.6 a proper assessment of the time-scale required for the project has been made;
  - 4.3.3.7 where existing property is affected by the proposed development, the service department has agreed proposals for dealing with staff or clients who might be temporarily displaced during construction; and
  - 4.3.3.8 relevant sustainability issues.
- 4.3.4 The capital programme for each Committee must be prepared within the block allocation and individual scheme approvals approved by Finance and Property Committee. All costs should be at estimated out-turn prices, unless otherwise determined by the Section 151 Officer.
- 4.3.5 The revenue costs of all schemes in the capital programme must be assessed each year. The staffing, lifecycle maintenance and other running costs must be included in the revenue budget. The financing costs for expenditure funded by borrowing or leasing will be calculated by the Section 151 Officer and included within the overall revenue budget.

#### **4.4 Feasibility Studies**

- 4.4.1 The appropriate technical officer can carry out preparatory work on any scheme included in the approved capital programme. The costs of this work must be charged to that scheme. If for any reason the scheme does not go ahead, then the costs of preparatory work undertaken must be charged to the revenue budget of the Committee concerned, which will need to make available sufficient budget cover for this. In practice, this means that the technical officer should not carry out preparatory work unless an undertaking has been secured for the funding of any abortive costs from the service department.
- 4.4.2 Design work must not take place on schemes which are not included within the approved capital programme unless written approval has been obtained from the Chief Executive and the Section 151 Officer.

- 4.4.3 The appropriate technical officer can carry out feasibility work on any other scheme not in the approved capital programme subject to:
  - 4.4.3.1 the Corporate Director agreeing to the cost being met from its revenue budget for the year; and
  - 4.4.3.2 prior approval from the Section 151 Officer has been obtained if the estimated cost of the feasibility study is **over £25,000**.

#### **4.5 Reports on "Latest Estimated Costs" of Proposed Schemes**

- 4.5.1 Corporate Directors must take a report to Finance and Property Committee setting out the latest estimated costs of all proposed capital schemes where the capital cost is over £1 million. The report must be made after detailed design work has been completed but before tenders are invited and should contain:
  - 4.5.1.1 Capital costs analysed into:
    - 4.5.1.1.1 land acquisition;
    - 4.5.1.1.2 construction costs;
    - 4.5.1.1.3 acquisition of plant, equipment and furniture;
    - 4.5.1.1.4 professional fees and project management costs;
    - 4.5.1.1.5 any other relevant costs.
  - 4.5.1.2 Revenue costs identified and analysed into:
    - 4.5.1.2.1 staffing costs;
    - 4.5.1.2.2 other running costs;
    - 4.5.1.2.3 financing costs;
    - 4.5.1.2.4 lifecycle maintenance costs.

In addition to total costs, the phasing of these costs over financial years should also be shown. If the costs exceed the existing capital programme provision for that scheme, the report must contain a statement on how these extra costs can be contained within the approved total capital programme or, if further capital funds are required, approval to increase the capital programme must be sought from the appropriate body within the Council.

- 4.5.2 For all schemes in the capital programme estimated to cost between £250,000 and £1 million, the Corporate Director, in conjunction with the appropriate technical officer, must submit a report on the latest estimated costs of the scheme to the Section 151 Officer and to the Finance and Property Committee.

- 4.5.3 Where the gross costs of an existing capital scheme exceed the approved budget, further approval for the increased costs (the capital variation) must be obtained. The requirement to submit an LEC report remains.

#### 4.6 Budgetary approval prior to Contract Award

Where the preferred tender exceeds the LEC or Capital Programme estimate, Corporate Directors must submit a revised LEC report and obtain all necessary approvals for the additional expenditure needed before accepting the tender.

Each Corporate Director must keep a record of the difference between accepted tenders and capital programme provisions.

The accepted tender cost becomes the figure included in the capital programme. If this gives rise to a variation in professional fees, the Section 151 Officer should be informed so that an amendment can be made to the capital programme.

The award of contracts must comply with the procedures for the procurement of Goods, Services and Works and the guidance in the Contracts Manual.

#### 4.7 Post-Project Evaluations

- 4.7.1 For completed projects, post-project evaluations must be carried out by the Corporate Asset Management Group and a report submitted to Finance and Property Committee as follows:
- 4.7.1.1 projects **up to £5 million** - for a sample of projects selected by Corporate Asset Management Group;
  - 4.7.1.2 projects **over £5 million** - all projects.
- 4.7.2 The post project evaluation should normally address the following matters:
- 4.7.2.1 out-turn costs vs original cost estimates and the reasons for any cost increases;
  - 4.7.2.2 breakdown of the professional fees incurred;
  - 4.7.2.3 actual timetable achieved vs original planned timetable and the reasons for slippage and delays;
  - 4.7.2.4 overall project outcomes and quality of project management;
  - 4.7.2.5 achievement of service objectives and benefits;
  - 4.7.2.6 lessons to be learned for future projects.
- 4.7.3 Technical officers should carry out a post project review for all their projects and report to the Corporate Director and, where different, the client, regarding the achievement of projected benefits and lessons to be learned for future projects.

## **4.8 Capital Financing**

- 4.8.1 The Section 151 Officer will make arrangements for the financing of capital expenditure in accordance with the CIPFA 'Prudential Code for Capital Finance' and the annual budget report approved by Council.
- 4.8.2 Decisions on leasing must be made by the Section 151 Officer, who will also determine whether proposed leases are 'finance leases' or 'operating leases'.

## **4.9 Capital Loans**

- 4.9.1 All proposals for loans to individuals or outside bodies should be accompanied by an appropriate risk assessment. Loans to individuals or outside bodies for regeneration purposes must be recommended by the Economic Development Committee for approval by the Finance and Property Committee or Policy Committee.

## **4.10 Investment in Equities**

- 4.10.1 Investment in equity stock must be recommended by the Economic Development Committee for approval by the Finance and Property Committee or Policy Committee.
- 4.10.2 These restrictions do not apply to pension fund investments.

## **5. ACCOUNTING SYSTEMS**

- 5.1 All staff must comply with accounting instructions issued from time to time by the Section 151 Officer. Accounting systems should provide information that is useful for both stewardship and management responsibilities. Any new accounting systems and retention of associated records, or records of assets and liabilities and any changes to such systems must be approved by the Section 151 Officer.
- 5.2 The Council accepts the CIPFA Accounting Codes of Practice and the supporting guidance statements. Standards of accounting must accord with these codes of best practice.
- 5.3 Corporate Directors and Committees are responsible for ensuring that all opportunities to obtain Government grants and other external funding towards the expenditure of their Department are exploited.
- 5.4 All interim or final claims in respect of Government grant and reimbursements or contributions from outside bodies, other than those recovered by Sundry Debtor accounts, must be signed by the Section 151 Officer. Corporate Directors must supply such information as the Section 151 Officer considers necessary to enable successful claims to be made promptly to ensure a satisfactory cash flow is achieved. The Section 151 Officer will provide guidance on the information required to support grant claims.
- 5.5 Corporate Directors are responsible for ensuring that appropriate systems and procedures are in place for the proper transfer of all financial records and assets, eg stocks, stores, imprest accounts, inventories, valuables, cash, etc, when an officer ceases to be responsible for these items.

- 5.6 The accounting control systems must include:
- 5.6.1 measures to ensure that the financial transactions of the Authority are recorded as soon as reasonably practicable and as accurately as reasonably possible;
  - 5.6.2 measures to enable the prevention and detection of inaccuracies and fraud, and the ability to reconstitute any lost records promptly and at reasonable cost;
  - 5.6.3 identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers in relation to significant transactions.
- 5.7 At the end of each financial year, Corporate Directors must notify the Section 151 Officer of all outstanding expenditure relating to the previous financial year in such detail and by such date as may be required by the Section 151 Officer so that accounts can be prepared to meet statutory reporting requirements.

## **6. MANAGEMENT, RETENTION, SECURITY AND DISPOSAL OF RECORDS**

### **6.1 General**

- 6.1.1 All Nottinghamshire County Council records, whether electronic or paper-based, are subject to the Authority's Information Management Policy which establishes key principles for the management, retention, security and disposal of these records.
- 6.1.2 Corporate Directors are responsible for providing suitable storage for Departmental records and for ensuring compliance with corporate policies governing the management, retention, security and disposal of records within their Department.
- 6.1.3 All retained records must be held in a manner which allows speedy and efficient retrieval of information, having due regard for the appropriate security requirements.

### **6.2 Retention of Records**

- 6.2.1 All business records should be retained in accordance with the retention schedules contained in the Corporate Information Policy. .
- 6.2.2 Where uncertainty exists about individual documents or records, the nominated Departmental Information Officers should be consulted for guidance.

### **6.3 Disposal of Records**

- 6.3.1 All records are subject to disposal policy standards which include the need to obtain prior authorisation and to maintain a record of the disposal. Officers seeking to dispose of business records must complete a records destruction form and follow the disposal guidance contained in the Information Management Policy.

## 6.4 Projects in receipt of European Grant Aid

- 6.4.1 The European Commission has strict rules governing document retention periods and the format in which documents must be kept. All supporting documents for projects in receipt of European Grant Aid must be kept for the minimum retention period, and in the format, specified by the European Programme of which the project is part. Therefore, it is essential to check with the Managing Authority for the relevant Programme to confirm both the allowable format of documents to be retained and the retention period.
- 6.4.2 Before any original supporting documentation is destroyed, it is essential to confirm with the Managing Authority that the retention requirements have not been extended or changed.

## 7. ASSETS

Assets include land and buildings, stocks and stores, cash, equipment and furniture, and electronic data.

### 7.1 Stocks and Stores

- 7.1.1 Corporate Directors are responsible for ensuring that appropriate systems and procedures are in place for the safe custody and physical control of the stocks and stores in their Department. They must arrange for periodic stocktaking by an independent person to ensure that all items are checked at least once per annum or at such other frequency as the Section 151 Officer may agree. Test checks should be carried out from time to time.
- 7.1.2 Records relating to assets and the method and frequency of stores and inventory checks will be determined by the Section 151 Officer.
- 7.1.3 Departments should not hold excessive stocks and Corporate Directors must ensure that a periodic review of stock turnover and stock levels of all items is undertaken and that action is taken to dispose of excessive or obsolete stocks.
- 7.1.4 Corporate Directors must notify the Section 151 Officer each year of the value of stock held by their Department as at 31 March and must supply such other information relating to stocks and stores as may be required by the Section 151 Officer.
- 7.1.5 Discrepancies revealed at a stock taking may be adjusted by the Corporate Director provided that it is under £1,000 in aggregate. Discrepancies over £1,000 must be reported to the Section 151 Officer who may authorise the necessary adjustment or refer any item to Internal Audit.
- 7.1.6 Surplus stocks, stores or materials must be disposed of in accordance with the procedures below:
- 7.1.6.1 items estimated to realise **£500 or less** – at the Corporate Directors' discretion;

7.1.6.2 items estimated to realise **between £500 and £10,000** - competitive quotations must be sought;

7.1.6.3 items estimated to realise **more than £10,000** – an appropriate number of tenders must be obtained (and retained) to demonstrate that best value has been obtained from the sale of the assets.

## **7.2 Cash, Equipment and Furniture**

7.2.1 Corporate Directors are responsible for maintaining appropriate security for all cash, furniture and equipment etc under their control.

7.2.2 Money held at premises must be placed in a cash box which must be kept locked and put in a secure place.

7.2.3 Safes must be kept locked and the key removed. Keys to safes, strong rooms and similar locked areas are to be stored securely at all times. The loss of such keys must be reported immediately. Master keys and spare safe keys should be stored securely at a separate location.

7.2.4 Where several officers use the same safe, each officer must use a separate lockable cash box for the monies they are responsible for.

## **7.3 Protection of Private Property**

7.3.1 Where an officer assumes responsibility for moveable property belonging to a private person, s/he must ensure that a formal itemised inventory is prepared promptly, and where possible, in the presence of two officers who must sign and date the inventory to certify its accuracy. The property must be held securely.

7.3.2 All valuables such as jewellery, watches and other small articles of a similar nature and documents of title must be kept in safe custody.

7.3.3 All reasonable steps must be taken to return the private property to its rightful owner. Where a significant cost has been incurred by the Council in providing safe custody, the cost should be recovered before the property is returned and an official receipt provided for monies received.

## **7.4 Disposal of Assets**

7.4.1 Where land or buildings are concerned, the Code of Procedures for the Disposal of Land and Buildings must be complied with.

7.4.2 Where ICT equipment is concerned, disposal must comply with the ICT disposal procedures.

7.4.3 Before disposing of an asset, officers should consult with the Section 151 Officer and must satisfy themselves that the asset has not been leased and cannot be economically re-used elsewhere in the Authority.

7.4.4 Surplus assets must be disposed of in accordance with the procedures below:

- 7.4.4.1 items estimated to realise **less than £500** – at the Corporate Directors' discretion;
  - 7.4.4.2 items estimated to realise **between £500 and £10,000** - competitive quotations must be sought;
  - 7.4.4.3 items estimated to realise **more than £10,000** - an appropriate number of tenders must be obtained (and retained) to demonstrate that best value has been obtained from the sale of the assets.
- 7.4.5 The Section 151 Officer will advise on the method of disposal to ensure that the most advantageous price is obtained. This will be subject to statutory requirements and any specific County Council policies.
- 7.4.6 Assets which have been sold may be released to the purchaser where payment has been made by cheque (covered by a valid guarantee card), debit card, credit card or by cash. Where payment is made by other means, the assets should not be released to the purchaser until the Section 151 Officer confirms that monies have been deposited in the Council's bank account.

## **7.5 Inventories**

- 7.5.1 Inventories of the Council's property must be prepared and kept up-to-date by each Corporate Director.
- 7.5.2 Inventories must be in a form agreed by the Section 151 Officer and the Corporate Director must arrange for the inventory to be checked with the physical assets at least annually and whenever an officer ceases to be the responsible officer.
- 7.5.3 An annual list of inventory items to be written-off must be submitted to the Corporate Director who may authorise the write-off of those items that have come to the end of their useful life due to fair wear and tear.
- 7.5.4 All other items for write-off must be reported by the Corporate Director to the Section 151 Officer who may authorise the write-off, inform Internal Audit and/or refer any item s/he considers appropriate to Finance and Property Committee.
- 7.5.5 The Council's property must not be removed from its usual location or used for unofficial purposes except with the express permission of the line manager.

## **8. SALARIES, WAGES AND PENSIONS**

- 8.1 The payment of salaries, wages, pensions or other emoluments will be made only by the Service Director, Human Resources and Customer Service. Each Corporate Director must notify the Service Director, Human Resources and Customer Service as soon as possible, and in the form prescribed, of all matters affecting an officer's pay. In particular this includes:
  - 8.1.1 all appointments, resignations, dismissals, suspensions, secondments and transfers;

- 8.1.2 absences for sickness or other reason, apart from approved leave;
  - 8.1.3 changes in remuneration, other than normal increments and pay awards and agreements of general application;
  - 8.1.4 information necessary to maintain records of service for pension purposes, and other statutory requirements such as income tax and national insurance.
- 8.2 Appointments of all employees must be made in accordance with appropriate conditions of service and any approved establishments or employment procedure rules and staffing standing orders.
- 8.3 All time records or other pay input documents must be in a form prescribed or approved by the Service Director, Human Resources and Customer Service . Corporate Directors must formally nominate the officers authorised to approve pay input documents and maintain a list for reference. Officers authorised to approve pay input documents must comply with the relevant Employment Procedure Rules as set out in the Constitution.
- 8.4 Overtime claims must be submitted promptly. Where these claims are over three months in arrears they will only be paid with the approval of the Service Director, Human Resources and Customer Service.
- 8.5 No person should be paid by the Council unless they have a valid contract of service with the Council.
- 8.6 For income tax purposes, temporary staff who are paid directly by the Council, whether describing themselves as self-employed or not, shall be treated as employees unless they provide acceptable documentary evidence from HM Revenue and Customs that they may be paid without deduction of income tax and national insurance.

## **9. PROCUREMENT OF GOODS, SERVICES AND WORKS**

### **9.1 General**

- 9.1.1 All procurement undertaken by the Authority, of whatever value, is subject to EU rules. For the avoidance of doubt, where there is any conflict between UK and EU legislation and these regulations, UK and EU law shall prevail.
- 9.1.2 These procurement regulations are intended to ensure the following objectives are met:
  - 9.1.2.1 **Probity and Openness:** Honesty, integrity and openness in all dealings and the avoidance of corruption;
  - 9.1.2.2 **Best Value:** The optimum outcome for the Authority and the residents of Nottinghamshire;
  - 9.1.2.3 **Equal Treatment of Suppliers:** Fair and equitable treatment for all potential suppliers;
  - 9.1.2.4 **Officer Protection:** Avoidance of situations which may lead to accusations of officer impropriety.

- 9.1.3 To achieve this, the Authority has developed a Corporate Procurement Strategy and these regulations are designed to support this strategy.
- 9.1.4 The procurement of goods, services and works, including the employment of consultants and specialist advisors, must comply with these regulations and the guidance provided in the Contracts Manual. The guiding principle of this Code is that Corporate Directors must, in all cases, comply with the principles of the best value legislation using a combination of tendering, partnering and other innovative procurement methods. All procurement, contracts and related matters must comply with any legislation.
- 9.1.5 Councillors and officers who have a personal or prejudicial interest in a contract, or other procurement decision, which they could influence, must ensure they comply, as appropriate, with the Code of Conduct for Members or Code of Conduct for Officers and shall not be supplied with or given access to any tender documents, contracts or other relevant related information without the authority of the Group Manager for Legal Services.

## **9.2 Partnerships and Procurement**

- 9.2.1 Working in partnership with external organisations is widespread across the Authority. All partnership agreements should be subject to appropriate contractual arrangements which have been approved by the Group Manager for Legal Services.
- 9.2.2 Partnerships are established for varying reasons and can take many different forms. It is important to ensure that the reasons for entering into a partnership are clear and remain under review. Appropriate accounting and audit arrangements must be put in place and the Authority's policy guidance on partnerships and work for outside bodies should be followed.
- 9.2.3 Partners must formally acknowledge and accept their respective roles and responsibilities within the partnership before the project commences, having assessed the risks and resources required to deliver the project.
- 9.2.4 The Council may procure goods, services and works through collaborative procurement exercises or joint commissioning in partnership with other public sector organisations. Where such joint procurement takes place the guidance in this section must be followed. In addition, the authorities involved in the exercise must decide which of them is to act as the lead authority for the purposes of the particular service, supplies or works being commissioned and the procurement procedures of the lead authority must be followed in the joint tendering exercise.
- 9.2.5 Where the County Council acts as lead authority it must carefully assess the risks involved, ensure that it does not take on liabilities of other public bodies by acting as lead and must follow any procedural safeguards as advised by Legal Services to protect the Council's position.
- 9.2.6 Goods, services and works must be procured through corporate procurement arrangements wherever they exist. Corporate Directors must contact the

- 9.2.7 Where a Council department provides goods, services or works of a particular kind, and can demonstrate that it provides value for money, that department must be given the opportunity to provide the required goods, services or works. If the goods, services or works are obtained from in-house sources, there is no requirement to obtain quotations and tenders. Where external suppliers have been used to obtain goods, services or works that are available from in-house providers, the reasons for not using the in-house provider should be retained on file.
- 9.2.8 Where in-house provision for goods, services or works exists, the decision of whether or not to expose this provision to alternative procurement arrangements, in accordance with the Authority's Procurement Strategy, should be reviewed periodically.

### **9.3 Use of External Suppliers**

- 9.3.1 The Council's Corporate Procurement Unit (CPU) shall be notified in advance of all procurement exercises with an estimated value greater than £10,000 and shall advise on areas for procurement efficiency to be achieved through central procurement arrangements, including framework agreements, partnerships and collaborative procurement. Contracts may be procured using arrangements put in place by Central Purchasing Bodies (such as the Government Procurement Service or the Pro5 Organisations) provided that certain safeguards are followed to minimise the risk to the Council. Guidance can be found in the Contracts Manual.
- 9.3.2 Where goods, services or works are NOT obtained through an existing, approved framework agreement, partnership or in-house provider, the procedure to be followed is dependent on whether the requirement is for 'Supplies and Services' or 'Works' and the estimated total value of the purchase over the full duration of the order or contract.
- 9.3.3 The current thresholds and a link to the procurement rules are set out in the table below, however, valuation of contracts is not always straightforward. The legislation requires the aggregation of contracts having similar characteristics within a particular period. This applies to all Council contracts of that type which exceed the threshold even if the total amount purchased is through lots of small contracts. (NB It is the Council's total purchases that count and not just each Department's total purchases.) Large contracts must not be split up to avoid applying the rules. Further guidance on these rules is available in the Contracts Manual.
- 9.3.4 Where any procurement exercise is undertaken which is backed by or involves the expenditure of European Regional Development Funds (ERDF) or other external funding then it must comply with the procurement requirements attached to that funding from time to time.



<b>A. CONTRACTS FOR SUPPLIES AND SERVICES</b>	
<b>Estimated Total Contract Value</b>	<b>Minimum Requirements</b>
Up to £1,000	Quotations to be sought if deemed appropriate by the Corporate Director or his/her nominee. Details of the suppliers approached and prices quoted to be kept on file.
£1,001 to £10,000	Quotations must be obtained from more than one supplier. Details of the suppliers approached and prices quoted to be kept on file.
£10,001 to £25,000	Three written competitive quotations must be obtained. Details of all quotations sought and received to be kept on file.
£25,001 to £50,000	Three tenders must be invited. Details of tenders sought and received to be kept on file.
£50,001 to EU threshold* for Supplies and Services (£173,934 as at January 2012)	Five tenders must be invited. Details of all tenders sought and received to be kept on file.
Above EU threshold* for Supplies and Services	EU procurement rules must be complied with. Details of all tenders sought and received to be kept on file.
<b>B. CONTRACTS FOR WORKS</b>	
<b>Estimated Total Contract Value</b>	<b>Minimum Requirements</b>
Up to £10,000	Prices must be obtained from more than one supplier. Details of the suppliers approached and prices quoted to be kept on file.
£10,001 to £25,000	Three written competitive quotations must be obtained. Details of all quotations sought and received to be kept on file.
£25,001 to £250,000	Three tenders must be invited. Details of all tenders sought and received to be kept on file.
£250,001 to EU threshold* for Works (£ 4,348,350 as at January 2012)	Five tenders must be invited. Details of all tenders sought and received to be kept on file.
Above EU threshold* for Works	EU procurement rules must be complied with. Details of all tenders sought and received to be kept on file.

\*NB The value of EU thresholds is published by OGC at [www.ogc.gov.uk](http://www.ogc.gov.uk)  
For EU procurement thresholds, the County Council is categorised as 'Other public sector contracting authorities'.  
Further guidance can be found in the Contracts Manual.

- 9.3.5 Except in cases of emergency, no work shall be carried out or goods, materials or services ordered or consultant appointed unless there is adequate budget available.
- 9.3.6 For goods, services or works valued up to £50,000 an official order should be raised before they are ordered.

- 9.3.7 For goods, services or materials where the total value is over £50,000, no work may be commenced on site or goods ordered, until a formal contract (and a completed bond if appropriate) approved by Legal Services, has been duly executed by the contractor and returned to the Council.
- 9.3.8 No work shall be carried out, or goods, materials or services ordered until the relevant client Corporate Director, where appropriate, has been consulted. Where the procurement is delegated or sub-contracted to an appropriate technical officer, the responsibility for complying with these procedures is assumed by that officer. All contracts must conform with any directions issued by the Group Manager for Legal Services.
- 9.3.9 Where regular use of external contractors is envisaged, suitable framework or partnership arrangements should be established, using appropriate tendering procedures, to minimise the need to obtain quotations or tenders. The use of contractors must be in accordance with the terms of the framework agreement.
- 9.3.10 Where ICT equipment, software and services are to be purchased, separate rules must be complied with.
- 9.3.11 Where it is decided that a pilot scheme is required to test a particular product, services or works (eg due to the existence of a new funding stream or new technological developments that are best assessed through a pilot exercise) then the pilot scheme should be established in accordance with the rules on tendering.
- 9.3.12 If the specification for any tender is developed by or in conjunction with any consultant or supplier, then that consultant or supplier shall be excluded from a future tendering exercise for those services, supplies or works. It is important that no supplier has an unfair advantage over others by having an opportunity to develop the specification for the tender for which it will later be bidding. This does not prohibit the Council from openly consulting with industry to develop its specification and does not prohibit the Competitive Dialogue procedure permitted under the EU procurement rules.

## **9.4 Use of Electronic Procurement Systems**

- 9.4.1 The use of 'e-procurement' methods, such as 'e-auctions' or 'e-tendering' and dynamic purchasing systems to obtain prices is permissible provided regulation 21 of the Public Contracts Regulations 2006 AND the Authority's procedures for e-procurement are complied with. The Authority's procedures shall be determined jointly by Legal Services and Internal Audit.

## **9.5 Selection of Tenderers**

- 9.5.1 Contractors should be selected in accordance with the guidance provided in the Authority's Contracts Manual.

## **6. Allowed Exceptions**

- 9.5.1.1 There are a number of circumstances where obtaining quotations and tenders for amounts less than the EU threshold may not be possible

- 9.5.1.1.1 the work to be executed or the goods or materials to be supplied constitute the first valid extension of an existing contract, which has been procured through a best value exercise, provided that such an extension has received the necessary budget approval and does not exceed the value of the original contract or the next value threshold . Contracts must not be extended where the total value will exceed the EU threshold. ;
  - 9.5.1.1.2 the Council is buying from a contract entered into following a proper tendering exercise by a consortium, collaboration, or similar central procurement body, of which the Council is a member and which the Council is authorised to buy from or through. Guidance on the use of Central Procurement Bodies is available in the Contracts Manual;
  - 9.5.1.1.3 the work to be executed or the goods or materials to be supplied consist of repairs to, or parts for, existing proprietary machinery, where such repairs or parts are specific to that machinery OR upgrades to existing software packages. For upgrades to software, the Service Director, ICT should also be consulted;
  - 9.5.1.1.4 works, supplies or services are urgently needed for the immediate protection of life or property, or to maintain the immediate functioning of a public service for which the Council is responsible. In such cases the contract must only last as long as is reasonably necessary to deal with the specific emergency;
  - 9.5.1.1.5 the Corporate Director decides that special circumstances make it appropriate and beneficial to negotiate with a single firm or that a single tender be invited. This will include occasions when it can be established that there is only a single source available or where the Corporate Director or his/her designate can demonstrate that best value for the Authority can be better achieved by not tendering.
- 9.5.2 Prior approval from the Section 151 Officer must be obtained for all exceptions.
- 9.5.3 Where special circumstances lead to negotiation with a single firm and the expected expenditure is over £25,000, prior approval must be also obtained from the Section 151 Officer AND the Group Manager for Legal Services. In all cases formal approval must be sought using the approved waiver request procedure.

- 9.5.4 Corporate Directors must ensure that, for all the above exceptions, there is documented justification for the waiver request and a copy of the formal approval in the relevant project file.

## **9.6 Tender Preparation**

- 9.6.1 Tenders may be invited for submission by any means jointly approved by the Section 151 Officer and the Group Manager for Legal Services eg by physical means such as post, courier or hand delivery) OR by electronic means such as approved e-tendering. The invitation to tender (ITT) must clearly specify the means of submission to be used for each tender and any associated rules pertaining to the submission.
- 9.6.2 All invitations to tender must specify that the Council is not bound to accept the lowest or any quotation or tender.
- 9.6.3 Where prior advertisement has not specified the award criteria, the invitation to tender must state the award criteria in objective terms together with the weighting for each of the chosen criteria. (This does not apply to the sale of property.) Further guidance on evaluation and award criteria is available in the Contracts Manual.
- 9.6.4 Subject to the EU Procurement Rules, the invitation to tender should normally include the County Council's contract terms. All invitation documents for contracts above the EU threshold must contain information for tenderers about the way the standstill period will be applied – see Contracts Manual.
- 9.6.5 All invitations to tender must include such other information or instructions as the Section 151 Officer or Group Manager for Legal Services may require.
- 9.6.6 All instructions to tenderers must include specific instructions on the application of the Freedom of Information Act 2000 and the Human Rights Act 1998. Further guidance on these matters is available in the Contracts Manual.
- 9.6.7 Pre-Tender enquiries may be carried out prior to the issue of an invitation to tender. The purpose is to ensure that an effective Invitation to Tender is prepared, for example, where the technical specification is so complex that it cannot be drawn up without information from prospective contractors. All potential contractors must be treated equally within this process.
- 9.6.8 If post-tender negotiations are anticipated, the tender documents must state that these may take place.
- 9.6.9 The invitation to tender should specify that, where examination of tenders reveals errors which would affect the tender figure in an otherwise successful tender, the tenderer must be notified of such errors and given the opportunity to clarify and confirm or withdraw their tender.
- 9.6.10 Tenders may be evaluated on the basis of price, or a mixture of price and quality criteria. The basis on which the tender will be evaluated must be determined before tenders are invited and included as part of the invitation to tender information.

- 9.6.11 Prospective tenderers must be informed that no work may start on site or goods or materials ordered until either:
  - 9.6.11.1 an official order has been issued; or
  - 9.6.11.2 a formal contract and a completed bond, has been duly executed by the contractor and returned to the Council.
- 9.6.12 If a performance bond is required, the nature and amount of the security to be given should be specified in the conditions of tender.
- 9.6.13 All tenders for the execution of works or the supply of goods or materials must be based on a clearly defined specification or bill of quantities.
- 9.6.14 All tenders shall require that, as a minimum, goods and materials used in their execution must be in accordance with relevant specifications issued by the British Standards Institute, or by the European Union, or its equivalent.
- 9.6.15 Tenders for capital works should include evaluation of the full lifecycle costs applicable to the works. This may also apply to other purchases such as ICT hardware and software where the cost of consumables or annual licences and support contracts can significantly increase costs over time.

## 9.7 Receipt and Opening of Tenders

- 9.7.1 Every invitation to tender must state that a tender will only be considered if it is submitted in accordance with the instructions provided, and received by the date and time specified in the invitation to tender. The invitation to tender must also state that tenders which do not comply fully may be rejected.
- 9.7.2 Tenders submitted electronically must comply with, and be processed in accordance with the Authority's approved electronic tendering procedures.
- 9.7.3 Tenders submitted by physical means (eg by post or courier) must arrive in a sealed, plain envelope or package with the word "Tender" and the title of the contract clearly written on each envelope or package.
- 9.7.4 Such envelopes and packages must be addressed impersonally to:
  - 9.7.4.1 the appropriate Corporate Director, for tenders where the total expenditure over the duration of the contract is estimated to be **less than £100,000**; or
  - 9.7.4.2 the Group Manager for Legal Services, for tenders where the total expenditure over the duration of the contract is estimated to **£100,000 or more**.
- 9.7.5 Until the time specified for opening tenders, tender envelopes or packages received must remain in the custody of the Group Manager for Legal Services or the appropriate Corporate Director, as the case may be. Electronic tenders must be held securely in a manner approved by the Section 151 Officer.

- 9.7.6 The opening of tenders must comply with the following requirements:
- 9.7.6.1 **Total estimated cost less than £100,000** - tenders must be opened and recorded at one time in the presence of:
    - 9.7.6.1.1 the person responsible for letting the contract; and
    - 9.7.6.1.2 a supervising officer, with suitable seniority, training and experience in the role and responsibilities of a supervising officer, who must not have any direct involvement in the administration of the contract to be awarded.
  - 9.7.6.2 **Total estimated cost £100,000 or more** - tenders must be opened and recorded at one time in the presence of:
    - 9.7.6.2.1 a representative of the Group Manager for Legal Services;
    - 9.7.6.2.2 a representative from the appropriate department;
    - 9.7.6.2.3 a supervising officer of senior officer grade or above, provided by the Group Manager for Legal Services or the Section 151 Officer.
- 9.7.7 A formal record of all tenders received for each contract must be retained and must include:
- 9.7.7.1 description of the contract being let;
  - 9.7.7.2 the date and time set for receipt of tenders;
  - 9.7.7.3 the date and time tenders were opened;
  - 9.7.7.4 the supervising officer and other officers present;
- And for each tender:
- 9.7.7.5 the tenderer's name;
  - 9.7.7.6 the date received;
  - 9.7.7.7 the tendered value (where applicable);
  - 9.7.7.8 details of any noteworthy events (eg tender excluded with reasons).
- 9.7.8 The procedures to be followed when opening tenders will be determined by the Group Manager for Legal Services and the Section 151 Officer. These procedures must include provision for dealing with late tenders and other complications that may arise – see the Guidance for Supervising Officers.

## **9.8 Clarification of Tenders**

- 9.8.1 If the examination of tenders and supporting documentation reveals errors, discrepancies or ambiguities which would affect an otherwise successful tender, such errors or discrepancies must be dealt with in accordance with the procedures set out in the invitation to tender.
- 9.8.2 Where the procedure for dealing with errors or discrepancies is not clearly specified by the invitation to tender, the tender must be referred to the Group Manager for Legal Services and the Section 151 Officer for a decision on the appropriate action to be taken.
- 9.8.3 Under no circumstances must the clarification process be used to attempt to seek an adjustment of prices or other changes to the specification tendered. Nor must prices or other confidential information from any tender be divulged to other bidders, or individuals not properly connected with the evaluation of tenders.
- 9.8.4 Care should be taken to check that tenders submitted contain realistic prices and are not abnormally low. Where tenders are received that appear to be abnormally low they may be rejected but only if certain steps are followed (see Regulation 30(6) of Public Contracts Regulations 2006).

## **9.9 Post-Tender Negotiations**

- 9.9.1 The following rules only apply to tenders under the EU threshold. Where EU procurement regulations apply, negotiations may only be conducted in accordance with EU regulations after consultation with the Group Manager for Legal Services and Section 151 Officer.
- 9.9.2 Post-tender negotiation constitutes discussion with tenderers after the submission of a tender, but before the award of the contract, including negotiations following the receipt of non-compliant bids. The purpose of post-tender discussion may be to obtain an adjustment to the price, delivery or content of the contract.
- 9.9.3 Post-tender negotiations may only be entered into if advanced notice is included in the tender documents.
- 9.9.4 The relevant Corporate Director must provide written approval before post tender negotiations are entered into.
- 9.9.5 Negotiations should be conducted by a team of at least three senior officers, one of whom must be from an independent division. A lead officer must be appointed with responsibility for ensuring that these procedures are adhered to. The team must observe the highest standards of integrity and fairness.
- 9.9.6 Negotiations must be conducted with all tenderers to ensure equality of treatment and opportunity, unless there are clear and objectively justifiable reasons for excluding one or more of them. All negotiations must be recorded and retained on file. In case of doubt, the lead officer should seek advice from the Group Manager for Legal Services.

- 9.9.7 Comprehensive, written records of all negotiations must be retained to ensure that the requirements for accountability are met. The records must contain details of the officers involved, the name of the tenderer(s), reasons for entering negotiation and any exclusions from the negotiation, time, date, manner (eg meeting, email, telephone etc) and details of discussions and agreements reached. The record must be signed by the officers involved to confirm its accuracy.
- 9.9.8 Agreements reached during negotiations must be incorporated into the contract.

## 9.10 Acceptance of Tenders

- 9.10.1 Subject to the relevant requirements a tender may be accepted as the winning tender by the appropriate Corporate Director using a form of acceptance letter approved by Legal Services. Notification of acceptance must also be provided to the Corporate Procurement Unit giving the details they need to maintain their Contracts Database.
- 9.10.2 For capital contracts, where the winning tender exceeds the figure in the latest estimated cost (LEC) report, the following requirements apply:
- 9.10.2.1 where the excess is over 20% of the LEC, the Corporate Director must reappraise the project to confirm it is still viable and must inform the Section 151 Officer about the reappraisal and the proposed methods of financing the additional cost. The Section 151 Officer may submit a report to Finance and Property Committee if considered necessary;
  - 9.10.2.2 approval for the additional funds required to proceed with the scheme must be obtained by the Corporate Director submitting a revised LEC report and obtaining all necessary approvals for the additional expenditure needed before accepting the tender.
- 9.10.3 Where the tender sum **exceeds £2 million** a tender must not be accepted until the Section 151 Officer has been consulted and approved it.
- 9.10.4 The successful tender(s) will be selected by applying the evaluation criteria to each bid received in accordance with the evaluation scheme set out in the invitation to tender (ITT). The selection will be either on the basis of the Most Economically Advantageous Tender to the Council or the lowest price offered. In most cases the Most Economically Advantageous Tender criteria will be applied by considering both price and relevant quality factors. Only in relatively few cases will price alone be capable of meeting the Council's duty to secure best value. Further guidance on tender evaluation is given in the Contracts Manual.
- 9.10.5 Subject to the requirement for a standstill period, all tenderers must be notified of the result of the procurement as soon as possible after the award decision. The notification must contain:
- 9.10.5.1 the award criteria;

- 9.10.5.2 where appropriate, the tenderer's score;
  - 9.10.5.3 where appropriate, the winning tenderer's score;
  - 9.10.5.4 the name of the winning tenderer.
- 9.10.6 Where a tenderer requests information on how the award decision was reached by midnight of the second working day of the standstill period (called a request for an "Accelerated Debrief") this information must be provided at least 3 days before the end of the standstill period or if necessary the standstill period must be extended accordingly. In all other cases detailed information must be provided within 15 calendar days of the request. (See also debriefing guidance in the Contracts manual.)
- 9.10.7 Within 48 days of awarding an EU contract, a Contract Award Notice, in the prescribed form, must be sent to the Official Journal of the European Union (OJEU).

## **9.11 Contracts and Orders**

- 9.11.1 Except in cases of emergency no contract may be awarded, or order raised, unless the expenditure has been included in approved estimates or in capital or revenue accounts, or has been otherwise approved by, or on behalf of, the Council.
- 9.11.2 For contracts above the EU threshold, there must be a minimum standstill period of at least 10 calendar days between communicating the award decision to all tenderers and contract conclusion. This does not apply to procurement outside the full scope of EU procurement directives or where single tendering takes place under the extreme urgency provision of the negotiated process. (See guidance provided in the Contracts Manual.)
- 9.11.3 A 10 day standstill period is required before awarding a contract after a stand-alone e-auction is closed (ie an e-auction which is run outside a framework agreement) or at the end of an e-auction run within a Dynamic Purchasing System. E-auctions held within framework agreements are for specific call-offs so they do not need a standstill period. For e-auctions outside of a framework agreement the terms and conditions of contract will need to be amended prior to the e-auction to ensure that the contract is not automatically formed when the final bid is accepted, to ensure compliance with UK and EU legislation.
- 9.11.4 All contracts for construction and maintenance work must be executed as Deeds under Seal along with any other contracts or agreements as may be specified from time to time by the Group Manager for Legal Services.
- 9.11.5 Other orders and contracts must, as a minimum, be signed in accordance with the table below. (NB Officers authorised to sign higher value contracts may also sign the lower value orders and contracts):

Estimated Value	1st Signatory	2nd Signatory
Under £50,000	Budget Holder*	n/a
£50,000 - £250,000	Budget Holder	Officer of equal or senior status to the Budget Holder
£250,001 - £1m	Budget Holder	3rd tier officer or above
Over £1m	must be executed as a deed under seal	

\* For orders under £50,000, the budget holder may set up a formal list of officers authorised to sign orders against his/her budget. This list must specify the value limit of the delegated authority for each officer.

NB Where there is no relevant budget holder for an order or contract (eg where items are procured corporately on behalf of all Departments) the Budget Holder role may be undertaken by an appropriately authorised officer within the Corporate Procurement Unit.

9.11.6 All tender and contract documents and orders must be in a form drawn up or approved by the Group Manager for Legal Services and Group Manager Procurement.

9.11.7 Corporate Directors are responsible for the control of all official orders issued from their Department. Order forms should be standardised wherever possible and approved by Legal Services every three years to confirm that the terms and conditions in use are appropriate.

9.11.8 Any contract in which the Council provides an indemnity or guarantee must have prior approval from the Group Manager for Legal Services.

9.11.9 Official orders are not required for metered supplies of utility services once a contract is in place; for periodic payments such as rents and rates; for petty cash purchases or for other exceptions approved by the Section 151 Officer.

## 9.12 Contract Provisions

9.12.1 Contracts for the execution of work or for the supply of goods or materials by a particular date, or series of dates, must provide for liquidated and ascertained damages, unless deemed unnecessary by the appropriate technical officer after consultation with Group Manager for Legal Services. The amount to be specified in each such contract will be determined by the appropriate technical officer in consultation with the Group Manager for Legal Services.

9.12.2 Security in the form of a bond is required for the due performance of a contract, where:

9.12.2.1 the total value of the contract **exceeds £1 million**; and

9.12.2.2 the contract is for the execution of work or for the supply of goods or services by a particular date or series of dates.

9.12.3 The Corporate Director or appropriate technical officer may decide that a bond is required below £1 million if the Authority is at particular risk. This may arise where the contractor concerned has a number of other contracts with the

- 9.12.4 Where a bond is required, the Corporate Director or appropriate technical officer, in consultation with the Group Manager for Legal Services and the Section 151 Officer, must specify, as a provisional item in the conditions of tender, the nature and amount of the security to be given. The security must be in a form, and be obtained from an institution, approved by the Section 151 Officer.
- 9.12.5 All construction and maintenance contracts must provide for a payment retention to be withheld for an appropriate period to allow for the rectification of faults and defects. The retention should normally be 5% of the contract sum but technical officers may vary this rate if they consider it appropriate to do so. Justification for using a different retention rate must be retained on file.
- 9.12.6 The requirement for bonds and retentions does not apply when the Corporate Director or appropriate technical officer concerned is of the opinion that such security is unnecessary after consultation with the Group Manager for Legal Services and the Section 151 Officer.
- 9.12.7 On satisfactory completion of the work, the release of any security must be authorised by the Corporate Director or appropriate technical officer in consultation with the Section 151 Officer.
- 9.12.8 All contracts for the execution of works or the supply of goods or materials must be based on a clearly defined specification or bill of quantities.
- 9.12.9 All contracts must require that, as a minimum, goods and materials used in their execution will be in accordance with relevant specifications issued by the British Standards Institute, or the European Union or its equivalent.

### **9.13 Retention of Records and Information on Contracts and Tenders**

- 9.13.1 There are some specific issues to consider in respect of information management where contracts and tenders are concerned.
- 9.13.2 There is a general presumption in favour of disclosure of information and information can and should only be withheld if certain limited exceptions are met. Careful consideration of the issues will be required in accordance with the Council's Information Management Policy.
- 9.13.3 The most relevant exceptions in the context of procurement are:
  - 9.13.3.1 information provided in confidence (where the Council is contractually bound not to disclose certain information and to do so would be liable for breach of contract). Care should, therefore, be taken not to enter into blanket confidentiality clauses in contracts or tender documents;
  - 9.13.3.2 the public interest test (whereby the respective public interests in disclosure versus non-disclosure are weighed);

- 9.13.3.3 commercial interest (such as trade secrets of information genuinely unique to a bidder or contractor which, if revealed, is likely to cause real or significant harm to that trade or business);
- 9.13.3.4 timing (very often in a commercial environment the timing of any disclosure of information held will be critical. For example, information submitted during a tender process is more likely to be commercially sensitive whilst the tender process is ongoing compared to after the contract has been awarded, although some information may remain commercially confidential throughout the contract).
- 9.13.4 Due to the particular risks involved the following safeguards should be followed:
  - 9.13.4.1 all tender documents must make reference to the Council's statutory duty in respect of Freedom of Information (FOI) and the potential requirement to disclose information submitted unless the limited exceptions are satisfied;
  - 9.13.4.2 rules to be followed when information requests are received should be set out in the contract (especially larger more complex contracts);
  - 9.13.4.3 consultation with affected bidders is advisable before disclosing information, although ultimately the decision on whether or not to release any information held is a matter for the Council alone.
- 9.13.5 Guidance on FOI and the Council's Information Management Policy is available on the Council's Intranet site. Detailed guidance about FOI and procurement is available on the OGC website, from the Information Commissioner's website, in the Contracts Manual and from Legal Services.

## **9.14 Contract Payments**

- 9.14.1 Where contracts provide for payment to be made by instalments, the appropriate Corporate Director must maintain a record of the payments made on the project file. The record(s) must show the state of account on each contract between the Council and the contractor together with any other payments and the related professional fees.
- 9.14.2 Payments to contractors on account of such contracts must be made only on provision of a certificate showing the total amount of contract, the value of the work executed to date, retention monies, the amount paid to date and the amount now certified. These certificates should be issued by the appropriate Corporate Director or the Consultant responsible for the contract.
- 9.14.3 The approved sum payable to the contractor is the tender sum as accepted under the procedure plus such additional sums due under the contract as have also been properly approved.
- 9.14.4 Where certificates are submitted for amounts which exceed the approved sum, the Section 151 Officer only has authority to pay such certificates where the amounts can be justified and it is in the best interest of the Council to do so.

- 9.14.5 As soon as it becomes apparent that the approved sum will be exceeded, a report must be presented to the Section 151 Officer, who may also require a report to be submitted to the Finance and Property Committee.
- 9.14.6 In respect of variable price contracts, such as PFI or PPP contracts which have complex variation procedures, the appropriate Corporate Director must periodically review the cost and report to the Section 151 Officer if the contract sum is likely to be exceeded. These reports must be made whenever significant increases are identified and at least every six months up to completion of the contract.

## **9.15 Contract Administration**

- 9.15.1 Corporate Directors or the appropriate technical officers must provide written guidelines on the minimum standards of record keeping required for supervising contracts.
- 9.15.2 Claims from contractors regarding matters which are not clearly within the terms of the contract must be referred to the Group Manager for Legal Services for consideration of the Council's legal liability as soon as they are notified to the Council. Where the Group Manager for Legal Services considers it necessary, these claims must also be referred to the Section 151 Officer for financial consideration before a settlement is reached.
- 9.15.3 Valid claims for loss and expense arising from delays and disruption must be notified to the Group Manager for Legal Services where they are likely to exceed £100,000 or where there is a possibility of legal proceedings, including arbitration or alternative dispute resolution procedures provided by the contract.
- 9.15.4 Liquidated and ascertained damages, where allowed for, must be applied in respect of contracts which are not completed within the original contract period together with any extensions of time granted in accordance with the contract unless the Section 151 Officer and the Group Manager for Legal Services agree otherwise.

## **9.16 Final Accounts**

- 9.16.1 Final accounts for building and constructional works carried out under formal contract must be reported to the relevant Committee by the appropriate Corporate Director, if required by the Section 151 Officer.
- 9.16.2 The Section 151 Officer shall, where considered necessary, examine the contract final accounts and is entitled to make all such enquiries and receive such information and explanations as may be required to confirm the completeness and accuracy of the accounts.

## **9.17 Administration of Contracts by Consultants**

- 9.17.1 Where a consultant (eg an architect, engineer, surveyor or other consultant) who is not an employee of the Council, is engaged to be responsible to the Council for the administration of a contract on its behalf, the consultant must:

- 9.17.1.1 be notified of, and comply with, the Council's Financial Regulations as would a Corporate Director;
- 9.17.1.2 be notified of, and comply with, the Code of Conduct for Officers;
- 9.17.1.3 retain all relevant records regarding the contract for a period specified by the responsible Corporate Director;
- 9.17.1.4 allow access to contract records and documentation upon request from the responsible Corporate Director or the Section 151 Officer; and
- 9.17.1.5 hand over the appropriate "as-built" drawings promptly together with all project and contract documentation to the Council, and in any case within six months of completion of the works.

## **10. PAYMENT FOR GOODS, SERVICES AND WORKS**

- 10.1 Before authorising an official purchase invoice, or any process that may lead to a payment, officers must:
  - 10.1.1 ensure they are authorised to process the payment;
  - 10.1.2 satisfy themselves that the goods/services/works are a proper charge on the funds under their control;
  - 10.1.3 satisfy themselves that the goods/services/works have been received, conform in all respects with the official order and are acceptable in every way;
  - 10.1.4 ensure that amounts are correct and include all discounts due;
  - 10.1.5 where payment is made by purchase card, charge card or credit card, it may not be possible to be satisfied that goods/services/works have been received, conform and are acceptable, but officers must ensure compliance with the other procedures above and with the guidance for the use of purchase cards.
- 10.2 The Council's normal method of payment of monies owed is by BACS or cheque or purchase card.
- 10.3 Direct Debits must not be set up on any of the Authority's bank accounts, including imprest accounts, without the prior written approval of the Section 151 Officer.
- 10.4 Direct Debits must be cancelled promptly when the related goods or services are no longer being received. All Direct Debits must be reviewed annually to confirm they are still appropriate.
- 10.5 In addition to the responsibilities set out in Financial Regulations, an officer initiating payment should also ensure that the account has not previously been passed for payment and that it is coded to the correct accountancy code for which prior approval has been obtained from the budget holder.

- 10.6 The duties of ordering, receiving goods and certifying invoices for payment must not be performed by the same officer without prior agreement of the Section 151 Officer. Where electronic procurement systems have been approved, these systems may allow single officers to do this, provided that they have suitable security protocols to the satisfaction of the Section 151 Officer.
- 10.7 On no account can VAT invoices be amended. A credit note or replacement invoice must be obtained from the supplier.
- 10.8 Invoices must not be made out by officers of the Council except in the case of recurring or other items, eg rent where no invoice is normally receivable, when a special form of internal invoice may be used. An officer must not add any additional item or items to an invoice received by the County Council.
- 10.9 The Section 151 Officer may carry out additional checks on high value payments as thought necessary.

## **11. INCOME, BANKING AND IMPREST ACCOUNTS**

### **11.1 Income and Receipts**

- 11.1.1 To comply with anti money-laundering regulations, the Authority has nominated the Section 151 Officer as its anti money-laundering officer and introduced an anti money-laundering policy and an anti money-laundering guidance note. Corporate Directors must ensure compliance with this policy.
- 11.1.2 Cash payments of more than £10,000 must not be accepted for a single transaction without the formal approval of the Section 151 Officer.
- 11.1.3 The following requirements apply to all income received:
- 11.1.3.1 all income must be recorded and accounted for immediately it is received. Where appropriate, an official receipt must be provided;
  - 11.1.3.2 the transfer of money from one employee to another must be properly recorded and acknowledged;
  - 11.1.3.3 income must be banked intact and not used to finance expenditure;
  - 11.1.3.4 encashment of personal cheques is forbidden;
  - 11.1.3.5 income must be held securely until suitable arrangements for banking it are made.
- 11.1.4 All official receipt books relating to the collection of income are ordered, and issued by the Section 151 Officer unless otherwise agreed with the Section 151 Officer. The issue of all such documents must be acknowledged by signature of the officer to whom the issue was made.
- 11.1.5 Where income is received by cheque, it must be cross-referenced on the bank paying-in slip to the drawer, either by receipt number or name. In addition, the

- 11.1.6 All monies received must be banked intact, and as promptly as possible and at least weekly.
- 11.1.7 Where there is a main collection eg school meals money, all monies must be banked, or lodged with the approved collector, on the day of the collection.
- 11.1.8 If an officer fails to comply with the above guidelines and a loss occurs, the Section 151 Officer may, where appropriate, seek restitution from the officer concerned in accordance with the Personnel Handbook.
- 11.1.9 Money received by officers which is held in trust but not being official Council money must be properly recorded in a form agreed by the Section 151 Officer.
- 11.1.10 All arrangements to receive payments by Credit Card, Direct Debit, Standing Order, or other e-payment methods must be first approved by the Section 151 Officer.

## 11.2 Debtors

- 11.2.1 It is the Council's policy to recover all collectable debt owed to it in accordance with the approved payment terms. Corporate Directors are responsible for ensuring that formal invoices, in respect of the goods and/or services being supplied on credit, are raised within 10 working days of the goods and/or services being provided unless all the necessary information to raise the invoice is not available. Guidance is provided on the Council's intranet.
- 11.2.2 Sales invoices should not normally be raised to cover sums due to the County of **less than £30**. Wherever possible small sums should be collected in cash or by cheque in advance. Accounts for sums due to the Council at fixed intervals eg rents, wayleaves, etc, will be issued by the Section 151 Officer and payment should be made to the Section 151 Officer. Corporate Directors must submit sufficient information for the Section 151 Officer to undertake these duties.

## 11.3 Write-Offs

- 11.3.1 The Section 151 Officer may agree to debts of **up to £1,000** being written-off by the Corporate Director. Amounts **over £1,000** may be written-off by the Section 151 Officer after consultation with the Group Manager for Legal Services and appropriate Corporate Directors.
- 11.3.2 A summary of all write-offs must be included in the Final Accounts report to Finance and Property Committee.
- 11.3.3 Where a sales invoice requires cancellation a credit note must be raised, complete with a cross-reference to the original sales invoice. The credit note must be duly certified on behalf of the Corporate Director.

## **11.4 Imprest Accounts**

- 11.4.1 Corporate Directors must operate imprest accounts in accordance with the guidance provided and arrangements between their department and the Section 151 Officer.
- 11.4.2 The Section 151 Officer will control the opening and closing of imprest accounts in line with overall banking arrangements at the request of the appropriate Corporate Director.
- 11.4.3 The Section 151 Officer will determine the appropriate level of the Imprest, based on the average monthly level of petty cash expenditure in the establishment concerned.
- 11.4.4 The nominated imprest holder must ensure that all transactions are recorded promptly and that monthly statements are submitted to the Section 151 Officer.
- 11.4.5 The nominated imprest holder must ensure that the imprest account is not overdrawn.
- 11.4.6 Income received on behalf of the Council must not be paid into an imprest account.
- 11.4.7 Payments from an imprest account should normally be limited to minor or urgent items of expenditure, or payments via charge cards. Each payment must be supported by a receipt which should be appended to the subsequent reimbursement claim.
- 11.4.8 All imprest accounts are subject to Council audit. The officer in charge of the account will be required to give to the Section 151 Officer a certificate as to the state of the imprest account upon request.
- 11.4.9 Where an officer responsible for an imprest account leaves the Authority, the Corporate Director concerned must notify the Section 151 Officer as soon as possible that the officer is no longer responsible for that account. On leaving the Authority or upon transfer to another post, the officer responsible must formally hand over responsibility to the new designated person.

## **11.5 Banking**

- 11.5.1 The Section 151 Officer must operate banking accounts in accordance with the bank contract approved by the Finance and Property Committee.
- 11.5.2 All bank accounts must have a title which incorporates the Authority's name and in no circumstances should a bank account be opened or operated in the name of an individual.
- 11.5.3 All payments to and from Council bank accounts must be made under the direction of the Section 151 Officer.
- 11.5.4 All cheques drawn on the Council's main bank accounts must bear the printed signature of the Section 151 Officer. Where required by the Council's bank

11.5.5 All payments by CHAPS must be authorised by a senior officer nominated by the Section 151 Officer.

## **12. RISK MANAGEMENT AND INSURANCE**

- 12.1 The Authority's approach to risk management is detailed in its Risk Management Strategy and the Corporate Risk Register contains the key risks facing the Authority and how these risks will be managed. Corporate Directors are responsible for ensuring that risk management is applied appropriately within their Department and for notifying the holder of the Corporate Risk Register of all appropriate risks in accordance with the Risk Management Strategy.
- 12.2 The Section 151 Officer is responsible for arranging all necessary insurance cover and for reviewing the adequacy of this cover regularly, in consultation with Corporate Directors. The Section 151 Officer will also keep Corporate Directors informed of claims experience.
- 12.3 Corporate Directors are responsible for notifying the Section 151 Officer of all material changes in insurance risks and must submit insurance claims in accordance with the arrangements made by the Section 151 Officer.
- 12.4 In the event of buildings, contents, motor vehicles etc being damaged, contact must be made with the Risk and Insurance Section as soon as practicable.
- 12.5 Where there is death or very serious injury to an employee or other person arising from County Council operations (including the use of vehicles), the Risk and Insurance Section must be contacted as soon as possible for appropriate insurance advice.
- 12.6 Under no circumstances must liability be admitted in connection with accidents involving a third party.
- 12.7 The Risk and Insurance Manager may negotiate and agree settlements on any insured loss / claim up to the individual policy excess. Above this limit, the Risk and Insurance Manager must consult the Section 151 Officer and agree settlements as appropriate, in consultation with the Authority's Insurers and Loss Adjusters. Reports detailing all significant claims settled will be submitted to the Finance and Property Committee.

## **13. TRAVEL AND SUBSISTENCE CLAIMS**

### **13.1 Travel and Subsistence**

- 13.1.1 Travel and subsistence incurred by officers in connection with their duties is covered by the Authority's Travel and Accommodation Policy set out in the Constitution.
- 13.1.2 Travel, subsistence and incidental expense claims made by officers are governed by nationally agreed terms and conditions of service. These conditions are supplemented by the Council's local conditions laid down in the

- 13.1.3 All claims for officers' expenses should be submitted monthly in a form approved by the Section 151 Officer, and be authorised by a Corporate Director, or nominee, prior to payment. VAT receipts should be provided to support all claims, including fuel purchased for private cars where mileage is claimed.
- 13.1.4 The officer certifying claims for payment must be satisfied that the journeys undertaken were legitimate and that the expenses claimed were properly and necessarily incurred. Mileage claims should be verified wherever possible. Officers are responsible for ensuring that the costs claimed are kept to a minimum without unduly reducing the efficiency of the tasks carried out.
- 13.1.5 Where claims are submitted more than six months after the expenses were incurred, the claim will only be paid with the express approval of the relevant Corporate Director, and will be reduced in accordance with the Personnel Handbook.

## **13.2 Taxation Implications**

- 13.2.1 HM Revenue and Customs regard certain travel expenses to be taxable payments and the Section 151 Officer is required to make appropriate arrangements to recover the sums due. Guidance on Taxable Benefits is available on the NCC Intranet and full details of taxation requirements are obtainable from Departmental Personnel Officers.

## **14. WORK FOR EXTERNAL BODIES**

### **14.1 General Requirements**

- 14.1.1 The Council has the power under the Local Authorities (Goods and Services) Act 1970 to undertake and tender for the work of other public bodies. Public Bodies are defined in the act or can be designated by Order of the secretary of State. Other powers introduced in the Local Government Act 2003 enable the Council to:
  - 14.1.1.1 charge for discretionary services subject to certain rules; and
  - 14.1.1.2 trade for a profit provided that a separate company is set up.(See below for further details regarding these powers.)
- 14.1.2 In all cases where a Department wishes to explore the possibility of working for, or trading with, external bodies, Corporate Directors must consult with the Group Manager for Legal Services and the Section 151 Officer.
- 14.1.3 Where work is carried out for external bodies, officers must follow the guidance for such work which is available in the Contracts Manual.

- 14.1.4 Before entering into any contract or agreement to work for, or trade with, external bodies, Corporate Directors must present a report to, and obtain prior approval from the relevant Committee.
- 14.1.5 Where it is intended to trade for a profit, Corporate Directors must prepare a sound business case, based on a genuine risk-based approach, for the proposed trading activity. The business case must be a robust commercial assessment and explain why trading through a company is desirable and will provide best value for the Council.
- 14.1.6 The Group Manager for Legal Services and the Section 151 Officer must be informed of all contracts to supply services governed by the 1970 Act or the 2003 Act and all new contracts must be approved by the Group Manager for Legal Services.

## **14.2 Background**

- 14.2.1 The powers for local authorities to work for, and trade with, external bodies are governed by the Local Authorities (Goods and Services) Act 1970, Local Government Act 2000 and the Local Government Act 2003.

### **a. Local Authorities (Goods and Services) Act 1970**

14.2.1.1.1 The Council has the power under the Local Authorities (Goods and Services) Act 1970 to undertake and tender for the work of other public bodies. Public bodies are defined in the Act or can be designated by order of the Secretary of State.

14.2.1.1.2 The Council has some discretion under the 1970 Act whether to charge for any work undertaken for another public body. However, as a general principle the charge for any work should cover the estimated full cost of undertaking the work, including the direct cost eg staff time costs, travel and printing expenses and a contribution towards overheads eg office expenses and accommodation costs.

### **b. Local Government Act 2003**

14.2.1.1.3 The Local Government Act 2003 provides best value authorities with new powers to trade for profit, and charge for discretionary services. This extends beyond the powers under the 1970 Act referred to above.

## **14.3 Charging for Discretionary Services**

- 14.3.1 The Council is able to charge for services which it has the power to provide, but is not obliged to provide to the public, ie discretionary services.
- 14.3.2 The Council is under a duty to ensure that, taking one year with another, the charges made do not exceed the cost of providing the services (ie the provision

- 14.3.3 The person receiving the service must have agreed to receive the service and pay for it.
- 14.3.4 The power does not override any other legislation which expressly prohibits the Council from charging for a discretionary service.
- 14.3.5 Where charges are made for discretionary services arrangements should be put in place, and fully documented in a form approved by Legal Services, to provide the recipient of the service with:
  - 14.3.5.1 the terms and conditions for the provision of the service;
  - 14.3.5.2 information about charges, including discounts and annual increases;
  - 14.3.5.3 billing and payment arrangements.
- 14.3.6 Careful consideration should also be given by the relevant department to issues such as:
  - 14.3.6.1 the risks to the Council as a whole of engaging in such activity;
  - 14.3.6.2 the need to ensure appropriate skill and expertise is in place before offering to undertake work for external bodies;
  - 14.3.6.3 the need to ensure that the proposals are properly costed before agreeing to supply the goods, works or services;
  - 14.3.6.4 the type of warranties and/or indemnities that the external body may require from the Council regarding the quality of work/service provided (this is especially likely when tendering for work for other bodies);
  - 14.3.6.5 the provision of adequate insurance arrangements to cover the Council for any liability in negligence or contract for the work undertaken;
  - 14.3.6.6 due consideration being given to the impact of such arrangements on the Council's core duties, functions and obligations to prevent any adverse impact on them;
  - 14.3.6.7 ensuring that the Council is not at risk from bad debts and to seek, where appropriate and possible, advance payment for goods, works or services to be supplied;
  - 14.3.6.8 ensuring that no contracts for external bodies are subsidised by the Council from public funds.

## **14.4 The power to trade**

- 14.4.1 This power allows the Council to trade in any of its ordinary functions for a commercial purpose (ie for profit) through a company.
- 14.4.2 Where it is intended to trade for profit, Corporate Directors must prepare a sound business case for the proposed activity, based on a genuine risk-based approach. The business case must be a robust commercial assessment which explains why trading through a company is desirable and will provide best value for the Council.
- 14.4.3 All work for, or trade with, external bodies for profit must be conducted through a separate incorporated company which has been formally set up for the purpose.
- 14.4.4 The approval of the County Council will need to be sought to exercise a power to trade and to set up the company. It should be noted that when the company has been established it will be a separate legal entity from the Council and consideration within the business case will be required for each of the matters set out above plus such issues as:
  - 14.4.4.1 the need to transfer staff and consideration of the Transfer of Undertakings (Protection of Employment) regulations (TUPE);
  - 14.4.4.2 the impact of the trading activities of the service, as it may no longer be possible to award work directly to the company – they may have to bid for it via a tender process and may not therefore win the work which they previously provided to the Council as an in-house service;
  - 14.4.4.3 pensions implications;
  - 14.4.4.4 premises requirements;
  - 14.4.4.5 taxation implications.
- 14.4.5 More information about charging and trading, including the preparation of a business case, can be found in the Contracts Manual.

## **14.5 Pricing, Charging and Accounting Issues**

- 14.5.1 Under the 1970 Act and the 2003 Act in respect of charging for discretionary services, the Council has some discretion in terms of whether or not to charge for the services provided and how much. In the case of charging for discretionary services the Council is under a duty to secure that, taking one year with another, the income from charges does not exceed the costs of provision.
- 14.5.2 As a general principle, the charge for any work performed for an external organisation should cover the estimated full cost of undertaking the work. The full cost would include the direct cost of undertaking the work (eg based on the number of days of staff time the work is likely to take, any associated travelling expenses, printing costs etc) and a contribution towards overheads (eg office

- 14.5.3 Charging, accounting and monitoring arrangements should be as follows:
- 14.5.3.1 income should be collected in accordance with the Council's Financial Regulations;
  - 14.5.3.2 invoices should be rendered promptly and normally within one month of supply or in accordance with the contractual arrangements;
  - 14.5.3.3 the income arising from the performance of work for external organisations must be identified separately within the relevant service's accounts and it should be possible to determine associated direct expenditure;
  - 14.5.3.4 appropriate arrangements should be devised to monitor resource inputs, eg if the contract price is based on person-days, the number of person-days actually taken should be monitored;
  - 14.5.3.5 for External Audit requirements it is important to be able to identify work carried out for external organisations separately in the Authority's accounts.
- 14.5.4 Corporate Directors should produce an annual report on the work carried out for external organisations for the relevant Committee, providing the information outlined in the Guidance Note to the Code of Practice on Local Authority Accounting, but without breaking the Commercial Code.

## **15. INVESTMENT AND BORROWING**

- 15.1 The Section 151 Officer is responsible for arranging the investment of Council funds and the Pension Fund in accordance with approved Council policies.
- 15.2 The Section 151 Officer is responsible for arranging the borrowing and lending of money on the best available terms taking into account present and anticipated economic conditions and projected flow of funds.
- 15.3 The Council has accepted the CIPFA Prudential Code for Capital Finance, and the Code of Treasury Management. The Section 151 Officer must report any significant variations to the Prudential Indicators, with any necessary explanations to the Finance and Property Committee as soon as practical.

## **16. LEGAL CLAIMS AND SETTLEMENTS**

- 16.1 Corporate Directors must inform the Group Manager for Legal Services of all matters where the Council might have a legal claim against a third party and of all occasions where there is a likelihood that the Council will be sued by an outside body or individual.
- 16.2 Corporate Directors must inform the Section 151 Officer where the Council's finances might be affected and the Section 151 Officer should be involved in any resultant negotiations.

16.3 The Group Manager for Legal Services, in consultation with the appropriate Corporate Director and the Section 151 Officer, have the power to settle such claims in order to avoid litigation and/or to achieve best value for the Authority.

16.4 Any financial settlements, including redundancy payments made in relation to the employment of any staff, must be reported on a quarterly basis to the Personnel Committee.

## **17. PROTECTING PUBLIC FUNDS AND ASSETS**

17.1 The Council has a responsibility to protect its public funds and assets and has developed a strategy to deter fraud and corruption whether attempted on the Council from outside or from within.

17.2 The Council is committed to the highest possible standards of openness, probity and accountability. Part of meeting that commitment is to encourage employees and others who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. To facilitate this, the Council has approved a Whistle Blowing Policy to allow these concerns to be raised in confidence and dealt with appropriately.

## **18. AUDIT**

18.1 The Section 151 Officer is responsible for arranging the continuous independent internal audit of the Council. The Internal Audit Service will be provided in accordance with its terms of reference and the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom (2006).

18.2 Internal Audit focuses on the Authority's control environment and independently appraises the internal controls present in financial and other systems. The arrangements made by Corporate Directors to secure the economic, efficient and effective use of resources are also reviewed. Internal Audit reports are produced containing recommendations which should be responded to formally in writing. The results of Internal Audit work contribute to the Authority's Statement on Internal Control.

18.3 Internal Audit staff have the right of access to such records, assets, premises and personnel, and are entitled to receive such information and explanation, as they think necessary for the proper fulfilment of their duties.

18.4 If an irregularity occurs or is suspected, which may involve financial loss, it must be reported immediately to the Section 151 Officer who may investigate and report to the Group Manager for Legal Services and the relevant Corporate Director. The Section 151 Officer and the Group Manager for Legal Services will jointly determine what further action to take, in consultation with the Corporate Director and Chairman of the Finance and Property Committee.

18.5 The Internal Audit Service reports on relevant audit issues on a regular basis to the Authority's Audit Committee. Frequent liaison also occurs between Internal Audit and the Authority's External Auditors who rely upon the work of Internal Audit when forming their opinion on the Authority's key financial and other systems.

## 19. INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT)

- 19.1 The Service Director, ICT is responsible for ICT services, and for advising on all ICT equipment, software and services acquired by the Council.
- 19.2 The acquisition, development, maintenance and use of ICT equipment, services and solutions must conform with the Council's ICT Strategy and Standards. Proposed ICT activity, which may contravene any of the ICT policies and standards, should be referred to the Service Director, ICT for prior approval. In all cases such approval must be sought using the approved ICT waiver request procedure.
- 19.3 The procurement of ICT equipment, software and services, must comply with the Procurement of Goods, Services and Works guidance within Financial Regulations.
- 19.4 All ICT equipment, software and facilities acquired by the Council must only be used in accordance with conditions and guidelines issued by the Council.
- 19.5 The development of new networked systems, or major enhancements to existing systems, should first be agreed with the Service Director, ICT, whether or not the services of the IT Division will be used.
- 19.6 Projects must demonstrate that value for money will be achieved through the application of ICT. Evidence of the justification, expected benefits and value-for-money should accompany each request for approval. The level of supporting documentation to be submitted is given below:

Project Value	Supporting Documentation
Up to £10,000	Reasoned justification and expected timescales
£10,001 up to £50,000	Above plus options appraisal and full Life-cycle costing
£50,001 up to £100,000	Options appraisal, Risk assessment, full Cost-benefit appraisal + PID
Over £100,000	Full PRINCE2 business case

- 19.7 Formal approval must be obtained for all proposed projects and purchases before expenditure is committed. Approval should be sought as follows:

Project Value	Approval Required
Up to £50,000	Service Director, ICT
Over £50,000	ICT Strategy Board

- 19.8 Projects presented to the ICT Strategy Board must follow the approved ICT governance arrangements and supporting procedures.

- 19.9 Maintenance, upgrade and replacement of central hardware, software and networks are the responsibility of the Service Director, ICT and will be undertaken in accordance with ICT standards and governance arrangements.
- 19.10 Where Departmental hardware, software, or networks need to be replaced or upgraded, Corporate Directors must consult the Service Director, ICT regarding the requirements and specifications before proceeding.
- 19.11 Where ICT equipment becomes surplus to requirements, it should be disposed of using the ICT disposal procedures. Data storage media, eg disks and tapes, should be disposed of in accordance with the procedures for disposal of storage media.

## **19.12 IT Security Policy**

- 19.12.1 The Service Director, ICT and, where appropriate, the Group Manager for Legal Services, and the relevant Corporate Director, are responsible for maintaining proper security and privacy of data in accordance with current legislation eg Data Protection Act 1998, Computer Misuse Act 1990, Freedom of Information Act 2000.
- 19.12.2 All users of the Council's ICT systems must comply with published ICT standards and codes of practice, including:
- 19.12.2.1 the Council's Information Security Policy which is approved by Council; and
  - 19.12.2.2 the Information Security Standards which are published and maintained by the Service Director, ICT. The Information Security Standards incorporate guidance on legal requirements such as the Computer Misuse Act 1990 and the Data Protection Act 1998, and on codes of best practice such as the International Standard on Information Security Management (ISO 17799).
  - 19.12.2.3 the internet policy and internet code of practice;
  - 19.12.2.4 the email policy and email code of practice.
- 19.12.3 Compliance with the key principles outlined in the ICT Security Policies and Framework is mandatory, including the following:
- 19.12.3.1 employees must access only those ICT systems and data in the prescribed manner, to which they have been granted authorisation;
  - 19.12.3.2 passwords relating to a personal user identity must never be divulged to another person;
  - 19.12.3.3 attempts to obtain unauthorised access to an ICT system may constitute a criminal offence punishable by a fine or imprisonment or both;
  - 19.12.3.4 unauthorised copying of software is forbidden and may contravene copyright legislation;

19.12.3.5 use of the Internet can incur potentially serious security risks, and all guidance must be strictly observed;

19.12.3.6 the use of personal data relating to a living individual is regulated by the Data Protection Act 1998, contravention of which may lead to criminal prosecution.

19.12.4 Employees must report all suspected breaches of ICT security to the Service Director, ICT.

## **20. LAND AND BUILDINGS**

### **20.1 INTRODUCTION**

20.1.1 The Finance and Property Committee is responsible for the acquisition and disposal of land and buildings. Where the proposed acquisition of land and buildings falls outside the capital programme, such acquisition may proceed only after the additional resources required have been identified and allocated.

20.1.2 The Service Director, Transport, Property and Environment must maintain the Corporate Asset Register for all land and buildings owned by the Council and a separate record of all leased property. If acquisition is by means of a lease of 10 years or more, then the best value implications of entering into the lease must be considered.

20.1.3 Details of all transfers of land and buildings must be notified to the Section 151 Officer in order that the transactions may be properly recorded in the financial records.

### **20.2 GENERAL**

20.2.1 Councillors and officers who have a personal or prejudicial interest in the acquisition or disposal of any Council land or buildings must ensure they comply, as appropriate, with the Code of Conduct for Councillors or Code of Conduct for Officers, , and shall not be supplied with or given access to any tender documents, contracts or other information relating thereto without the authority of the Group Manager for Legal Services.

### **20.3 DISPOSAL**

20.3.1 When disposing of its land the Council is required to obtain the best price reasonably obtainable on the open market. Every effort must therefore be made to maximise the consideration realised by the Council on the disposal of land and buildings, including any claw-back, as appropriate. These efforts will include contacting major national and local purchasers and a list of such land purchasers will be maintained by the Service Director, Transport, Property and Environment. A suitable advertisement inviting interested parties to add their names to the list will be placed annually.

20.3.2 Where the Council provides public sector support to a third party in connection with any property transaction or project involving property, this could trigger the State Aid rules. In such circumstances the guidance set out in the 'European

Disposal must be by one of the methods outlined below:

## **7. Open Binding Tender**

- 20.3.2.1 At least 28 days before the last date for the receipt of tenders, an initial public notice must be placed in one or more of the local newspapers and, dependent on the nature of the land or buildings to be sold, in national newspapers and in such other publications as the Service Director, Transport, Property and Environment considers desirable. The notice must describe the land to be sold, invite requests for tender documents and state the date and time by which tenders are to be returned.
- 20.3.2.2 The form of tender will be settled by the Service Director, Transport, Property and Environment after consultation with the Group Manager for Legal Services and must be capable of acceptance as a binding contract.
- 20.3.2.3 The Service Director, Transport, Property and Environment, in consultation with the Chairman of Finance and Property Committee, will evaluate tenders and determine which, if any, is to be accepted.

## **8. Limited Binding Tender**

- 20.3.2.4 At least 28 days before the last date for the receipt of tenders, selected tenderers will be issued with the appropriate form of tender.
- 20.3.2.5 The form of tender will be settled by the Service Director, Transport, Property and Environment after consultation with the Group Manager for Legal Services and must be capable of acceptance as a binding contract.
- 20.3.2.6 The Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee will evaluate tenders and determine which, if any, is to be accepted.

## **9. Public Auction**

- 20.3.2.7 The Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee, will decide which auctioneers are to be used. The contract and conditions of sale should be prepared by the Group Manager for Legal Services. Any reserve price will be agreed by the Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee and with the chosen auctioneers.

## **10. Private Treaty Sale to One Party**

20.3.2.8 Where only one party is interested or is to be invited to submit a signed contract, the Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee shall take a decision after discussing the circumstances with the Group Manager for Legal Services and the Section 151 Officer.

## **11. Open Informal Tender**

20.3.2.9 The Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee, will make arrangements in appropriate cases for properties to be sold by Open Informal Tender which must be preceded by public advert subject to appropriate time limits.

## **20.4 TENDERS**

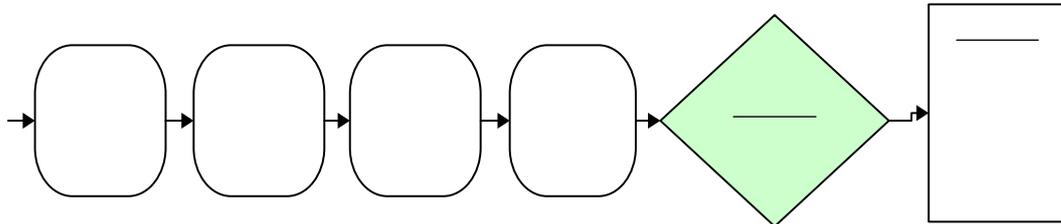
- 20.4.1 The invitation, receipt, opening and evaluation of tenders should be conducted in accordance with Financial Regulations Procurement of Goods, Services and Works section and the Contracts Manual.
- 20.4.2 The Service Director, Transport, Property and Environment will make available to the Group Manager for Legal Services and the Section 151 Officer on request a copy of the register of accepted tenders, maintained in accordance with Procurement of Goods, Services and Works section and the Contracts Manual.
- 20.4.3 All parties submitting unsuccessful tenders must be notified promptly of the outcome to their offer.

## **20.5 COMPLETION OF SALE**

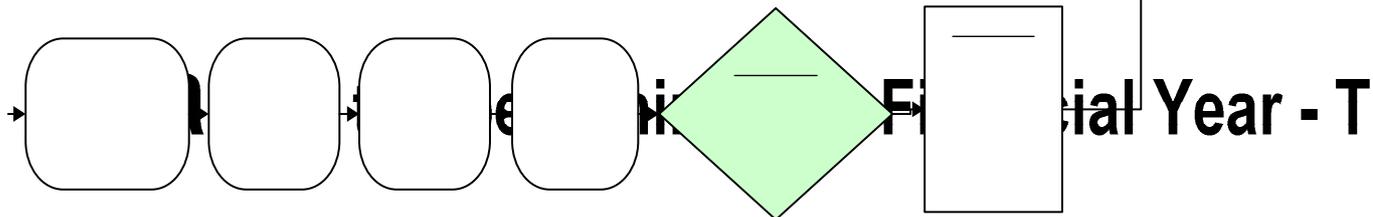
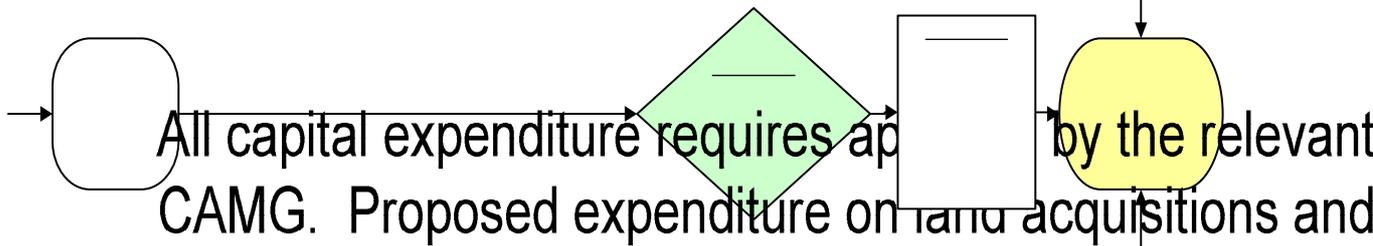
- 20.5.1 Once a sale has been agreed a reasonable period (not exceeding six months) will be allowed for the completion, except where a longer period is agreed during the original negotiations. If completion has not taken place by the end of the agreed period the Service Director, Transport, Property and Environment should make a report to the Finance and Property Committee , recommending that either:
- 20.5.1.1 the period for completion be extended; or
- 20.5.1.2 sale proceedings should be started afresh.
- 20.5.2 The Group Manager for Legal Services must be advised of all decisions to extend the completion date or to begin the sale proceedings afresh, so that they can inform all interested parties of the decision.

## 20.6 CANCELLATION

- 20.6.1 Every contract for the disposal of land or property must include a clause to allow the Council to cancel the contract with the purchaser and to recover from them the amount of any loss resulting from the cancellation if:
- 20.6.1.1 the person, firm or company has offered or given or agreed to give to any person a gift or consideration of any kind as an inducement or reward:
    - 20.6.1.1.1 for doing or refraining from doing or for having done or refrained from doing any action in relation to the contract or any other contract with the Council; or
    - 20.6.1.1.2 for showing or not showing favour or disfavour to any person in relation to the contract or any other contract with the Council; or
    - 20.6.1.1.3 such acts having been done by any person employed by them or acting on their behalf (whether with or without the knowledge of the purchaser).
  - 20.6.1.2 In relation to any contract with the Council the person, firm or company or any person employed by them or acting on their behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or any amendment of them, or shall have given any fee or reward the receipt of which is an offence under Section 117 of the Local Government Act 1972.



## 4.2.1 DECISION TREE - HOW TO GET



Options  
Appraisal Report  
to CAMG

Member  
Reference  
Group

**b. During the Financial Year - the Ad-Hoc**



## **EMPLOYMENT PROCEDURE RULES**

### **INTRODUCTION**

1. The Council has developed these regulations in order to outline the process to be followed when appointing or dismissing employees or taking disciplinary action against employees.
2. These regulations also deal with who has responsibility for changes to staffing structures. Staffing structures specify the number and types of posts that exist in each department.

### **APPOINTMENT AND DISMISSAL - SENIOR EMPLOYEES**

3. The Senior Staffing Sub-Committee is responsible for the appointment and dismissal of, and the taking of disciplinary action against, the following employees (who will be known as "Senior Employees" for the purposes of these regulations):
  - a. Chief Executive;
  - b. Corporate Directors;
  - c. Service Directors;
  - d. where the statutory role of the Head of Paid Service, Chief Finance Officer or Monitoring Officer is held by another post holder, that post holder.
4. The Senior Staffing Sub-Committee will meet as and when required.
5. The appropriate committee Chairman for the post being considered will always be present as a member of the Senior Staffing Sub-Committee. Where the issue being considered relates to the Chief Executive or a Corporate Director, the Senior Staffing Sub-Committee will have a membership of nine; otherwise the Senior Staffing Sub-Committee will have a membership of five.
6. The Senior Staffing Sub-Committee will be required to follow the Council's Recruitment and Selection Policy.

### **APPOINTMENTS**

7. The Council may choose to appoint any of the Senior Employees from an internal pool of candidates or by externally advertising.
8. The Council will draw up a job description and person specification which will be sent to any person on request.
9. The Senior Staffing Sub-Committee will draw up a shortlist of candidates for interview and assessment and will interview all short-listed candidates in accordance with:
  - a. the Recruitment and Selection Policy; and
  - b. the advice of an appropriate HR advisor.

10. The preferred candidate will be offered the post subject to satisfactory references and pre-employment checks.
11. A final decision in respect of the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer rests with Full Council.
12. Where a reorganisation affects the structure/numbers of Senior Employee posts, posts in the new structure will be filled in line with the enabling process agreed at the time. Any competitive interviews will be carried out by the Senior Staffing Sub-Committee in accordance with the enabling process.

## **DISMISSALS AND DISCIPLINARY ACTION**

13. In the case of dismissals, the Senior Staffing Sub-Committee will hear the case against the Senior Employee concerned and the hearing will be conducted in accordance with the Council's Disciplinary Procedure.
14. A final decision in respect of the dismissal of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer rests with full Council. Full Council will approve such dismissal before the notice of dismissal is issued.
15. The Senior Employee (unless the employee is the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer) will have a right of appeal to the Appeals Sub-Committee in accordance with the appeals process set out in the Personnel Handbook. The Appeals Sub-Committee will be advised by an appropriate HR adviser who has had no previous dealings with the matter.
16. In the case of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, no disciplinary action may be taken until a recommendation has been made following an investigation by a designated independent person. The neutral act of suspension for the purpose of investigating the alleged misconduct can be made by:
  - a. the Monitoring Officer in relation to the Head of Paid Service; or
  - b. the Head of Paid Service in relation to the Chief Finance Officer or the Monitoring Officer,in consultation with the Council Leader and Chairman of the Personnel Committee and any suspension will be on full pay and for a period of no longer than two months.

## **APPOINTMENT OF ASSISTANTS TO POLITICAL GROUPS**

17. The appointment of any person as a political assistant must be done in accordance with legislative requirements.

## **APPOINTMENT, DISMISSAL AND MANAGEMENT OF ALL OTHER EMPLOYEES**

18. The appointment, dismissal and management of employees (except Senior Employees) including disciplinary action will be carried out by properly authorised officers of the Council in line with the Recruitment and Selection Policy, other employment policy and procedures agreed by the Council and in compliance with statutory obligations.

## **EMPLOYMENT POLICIES AND PROCEDURES**

19. The Council recognises national collective bargaining and acknowledges the role of national negotiating bodies in agreeing a framework of terms and conditions for local government employees.
20. Regular information will be provided to committees as and when required and requested regarding staffing.
21. The Council will develop and amend employment policies as required.
22. Proposals for new initiatives, for changes to existing employment policies and the development of management guidance will be developed by Personnel Committee.
23. Proposals for new employment policies or changes to existing policies will be subject to consultation and negotiation with the recognised trade unions through the agreed mechanisms as set out in the Employment Relations Agreement as amended from time to time. Following consultation changes to existing employment policies and new policy matters will be considered by Personnel Committee and recommended to Policy Committee for approval.
24. Details of approved employment policies and procedures and any changes will be set out in the Personnel Handbook, policy documents or guidelines as appropriate.
25. The Council will recommend that community schools adopt the Council's approved employment policies and procedures; however the adoption or otherwise of such policies will be a matter for the school governing body, if such responsibility rests with them.

## **CHANGES TO STAFFING STRUCTURES**

26. Changes to staffing structures must be made by the relevant committees unless the post is temporary for less than 3 months. In such cases, the relevant Corporate Director can authorise the appointment (provided that, if the requirement for the temporary appointment continues after this time, the relevant committee's approval will be required).
27. A formal report will need to be presented to the relevant committee and will include the required advice and HR comments.
28. The recognised trade unions will be consulted on all proposed changes to staffing structures and any views given should be fully considered prior to a decision being made.

## **CHANGES TO STAFFING AND STRUCTURE RECORDS**

29. The Business Services Centre (BSC) will maintain staffing and structure records. The Chief Executive and his/her nominees must ensure that any changes to the staffing structures within their departments are notified to the BSC immediately after authorisation via the established procedures.

## **PAY AND GRADINGS**

30. Full Council will approve the Council's annual Pay Policy Statement.

31. For posts occupied by staff employed under the NJC for Local Government Services Agreement, the initial grading and any subsequent re-grading will be determined by the application of either the NJC or Hay Job Evaluation Schemes.
32. The re-grading of existing posts following evaluation using the Hay or National Job Evaluation Schemes will be automatically incorporated into contracts of employment.
33. The grading of new posts needs to be detailed in the reports to the relevant Committee regarding establishing those posts.
34. The re-grading of posts for those employee groups where job evaluation is not applied will require authorisation by the relevant Corporate Director (or their nominee) and will be reported back periodically to the relevant Committee for information.
35. With the exception of honoraria and market factor supplement payments that have been considered through the approved process set out in the Personnel Handbook, there is no discretion to apply extensions of pay above or outside of authorised pay bands. All honoraria and market supplement payments will be reported back to the relevant Committee periodically.
36. As a result of national collective bargaining, the Council will implement national pay awards as agreed by the various national joint negotiating bodies from time to time. The Council will determine a local pay structure comprising a number of salary bands, based on the National Pay Spine, extended as appropriate.

## **RESOLUTION OF DISPUTES UNDER THE EMPLOYMENT RELATIONS AGREEMENT**

37. Arrangements for the conduct of relationships with the recognised trade unions will be set out in the Employment Relations Agreement which is agreed between the parties.
  38. The Employment Relations Agreement will incorporate the structure and mechanisms for dialogue, consultation and negotiation with recognised trade unions at both corporate and departmental level and will include joint arrangements for the resolution of disputes including the establishment of a Local Joint Resolutions Committee.
  39. A separate process for trade union consultation and negotiation with schools may be agreed directly with the relevant trade unions.
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## **ACCESS TO INFORMATION AND MEETINGS**

### **INTRODUCTION**

1. Nottinghamshire County Council is committed to the principles of openness and accountability and encourages the public to attend meetings and take an active interest in how the Council works.
2. The Council is committed to making available minutes, agendas and reports for public inspection.
3. Councillors have additional rights to access information which they need to assist them in fulfilling their responsibilities.
4. These rules apply to all meetings of the Council, committees and sub-committees and set out the rights of individuals to attend meetings and access information.

### **REPORTS**

5. Committee reports will normally be available to the public. However if exempt information is required to enable a proper decision to be taken, it will be placed in an appendix to the report. Categories of exempt information are set out below.
6. Reports which include exempt information will set out the reason for this exemption and in the body of the report explain why it is not in the public interest to make that information available at that time.
7. On rare occasions it may be necessary for a whole report to be exempt and not publicly available due to the nature of the information it contains.
8. All reports will include a list of background papers (if any) relating to the subject matter of the report which:-
  - a. have been relied on in preparing the report (e.g. a consultant's report);
  - b. disclose any facts or matters on which the report or an important part of the report is based;
9. Reports may also include a list of any previous reports on the same issue and other published information that is relevant
10. Anyone requiring a copy of background papers for any report should contact Democratic Services. The list of background papers should indicate whether any papers include exempt or confidential information which cannot be disclosed.

### **MEETINGS**

11. The Council will give at least five clear working days' notice of all meetings. Details of all meetings will be posted on the notice board at County Hall and the Council's website: [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk).

12. Copies of the agenda and reports for meetings will be made available to the public for inspection at County Hall and will also be available on the Council's website. These documents will be made available:
  - a. five clear working days before the meeting; or
  - b. in the case of an urgent item or additional information, as soon as possible.
13. Members of the public may attend all meetings of the Council and its committees and will only be excluded when exempt information is discussed.

### **PUBLIC ACCESS TO DOCUMENTS AFTER THE MEETING**

14. Copies of meeting documents will be publicly available for 6 years following the date of the meeting unless they relate to exempt or confidential information.
15. The Council will supply copies of the publicly available documents to any person who requests them but may make a charge for costs incurred such as postage and photocopying.

### **CIRCUMSTANCES WHERE THE PUBLIC ARE EXCLUDED FROM MEETINGS**

16. Members of the public may be excluded from a meeting where exempt information as set out below is being discussed.
17. Members of the public must be excluded from a meeting where confidential information is being discussed. Confidential information for these purposes is:-
  - a. information given to the Council by a Government Department on terms which do not permit its public disclosure; or
  - b. information which cannot be publicly disclosed by virtue of any enactment or by Court Order.

### **Categories of Exempt Information**

General Conditions for all categories:

- a. Information **is not** exempt information if it relates to proposed development for which the Council as local planning authority may grant itself planning permission.
- b. Information **is not** exempt if it is required by law to be publicly available.
- c. Information can be exempt if it falls within one of the categories below and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- |   |
|---|
| <ol style="list-style-type: none"><li>1. Information relating to any individual, such as names, addresses, telephone numbers, or job titles</li><li>2. Information which is likely to reveal the identity of an individual, such as names, addresses, telephone numbers, or job titles</li><li>3. Information relating to the financial or business affairs of individuals or organisations (including the Council). This could include contemplated as well as past or current activities.</li></ol> |
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- |   |
|---|
| <ol style="list-style-type: none"><li>4. Information relating to any consultations or negotiations on employee relations.</li><li>5. Information to which legal professional privilege applies.</li><li>6. Information which discloses the Council's intention to issue a formal legal notice or make a formal legal order or direction.</li><li>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</li></ol> |
|---|

## **ADDITIONAL RIGHTS TO INFORMATION**

18. The provisions in this section of the Constitution do not affect any specific rights relating to the access of information which are contained elsewhere in this Constitution or the law; for example the Freedom of Information Act and the Data Protection Act
19. Previously exempt information may subsequently be made available if the reason for exemption no longer applies.

## **COUNCILLORS' ADDITIONAL RIGHTS**

### **Attendance at meetings**

20. The Procedure Rules [\[add link here\]](#) for committee and sub-committee meetings set out the provisions that apply to Councillors who wish to attend meetings of which they are not a member.

### **Access to information**

21. Councillors may request officers to provide them with any information they need to assist them in fulfilling their responsibilities as elected representatives. However, Councillors may not be able to access information which in the opinion of the Monitoring Officer is in draft form, contains confidential or exempt information as defined in this section, or where disclosure would breach the provisions of the Data Protection Act.



## **POLICY FRAMEWORK**

### **1. Responsibility for Policy**

- 1.1. Councillors are collectively the ultimate policy makers for the County Council. The Council's policies are set by Councillors as set out in the responsibility for functions of the Full Council and the Policy Committee.

### **2. Policy**

- 2.1. The Council's policies establish the principles that the organisation will follow in
  - 2.1.1. according with the Council's governing principles
  - 2.1.2. implementing the strategic vision for Nottinghamshire
  - 2.1.3. all decision making
  - 2.1.4. developing, improving, commissioning and providing services
  - 2.1.5. representing the views of the Council and Nottinghamshire.
- 2.2. The council's ambitions, values and priorities will be set out in a strategic vision for Nottinghamshire.
- 2.3. The strategic vision for Nottinghamshire will be delivered through a Plan. The council will report progress and achievements against the Plan.

### **3. Framework**

- 3.1. The Council's policies and strategies will be informed by the strategic vision for Nottinghamshire, the ambitions, values and priorities set out in the vision and the Plan to deliver it.
  - 3.2. The Council's policies and strategies will be supported by a plan for implementation of the policy or delivery of the strategy. The council will report progress and achievements against these Plans.
  - 3.3. The Council's policies and strategies will be accessed from a single policy library and will be subject to review [insert link to policy library]
  - 3.4. The development and review of policy will be led by Councillors. The Council will usually set one policy with service specific considerations if appropriate.
  - 3.5. The Council may develop procedures and issue guidance in accordance with its policies.
  - 3.6. Within the responsibility for functions of the Full Council and the Policy Committee Policy is a collective term which includes the Council's policies, strategies and statutory plans.
-



## **BUDGET FRAMEWORK**

### **BACKGROUND**

1. The Full Council is responsible for the approval of the Annual Budget. The Council's committees are responsible for implementing it.

### **CONSULTATION**

2. Before the budget is adopted the Council will publish initial proposals, having first canvassed the views of local stakeholders and members of the public as appropriate.
3. Any representations made will be taken into account in formulating proposals, and shall be reflected in any report dealing with them.

### **APPROVAL OF THE ANNUAL BUDGET**

4. The Full Council will be responsible for approving the annual budget.
5. In approving the annual budget the Council will also specify the extent of virement (the limits for the transfer of budget provision from one budget head to another) within the budget and degree of in-year changes to the Annual Budget.
6. The annual budget must be approved by the end of February each year.

### **DECISIONS OUTSIDE THE ANNUAL BUDGET**

7. Subject to the provisions regarding virement set out in the Financial Regulations, committees and officers may take only those decisions which are in accordance with the Annual Budget.
8. Any decision outside the Annual Budget and the virement provisions must be taken by Full Council.
9. If cases of urgency the Urgency Procedure should be followed.

### **ANNUAL ACCOUNTS**

10. The Council's Section 151 Officer is required by law to sign off the annual accounts by 30 June each year. These accounts will be presented to Full Council. Once the accounts are externally audited the final accounts will be presented to Full Council by 30 September as required by law.



## **PROTOCOL FOR INVOLVEMENT IN OUTSIDE BODIES**

1. The Council is committed to working with other local authorities, the private, voluntary and community sectors to deliver services in the most effective way. As a result Councillors and officers are often required to act as representatives on outside bodies. This document provides guidance for those acting as representatives.

### **Appointments to outside bodies**

2. The Council's Administration Committee is responsible for approving appointments to outside bodies and for determining which committee should receive regular updates from those bodies.

### **Support for representatives on outside bodies**

3. The Council will provide indemnity insurance in appropriate circumstances.
4. The Council will make every effort to maintain a fact sheet on each outside body, stating the purpose of representation, the responsibilities of Council representatives on those bodies, and the insurance position.
5. The Council has produced guidance regarding representatives' specific responsibilities when sitting on different types of bodies, such as limited and local authority companies, statutory bodies and charities. [provide link]. Further support is available from Democratic Services.

### **Responsibilities of County Council representatives on outside bodies**

6. Representatives must ensure they understand the capacity in which they are appointed to the outside body. This is important for two reasons:
  - a. The terms of appointment could mean that the individual takes on formal responsibilities, such as those of a company director or charitable trustee, and in some cases, personal liability. Representatives need to understand the extent of their role and be satisfied that appropriate indemnity insurance cover is provided either by the Council or the outside body.
  - b. In some instances the primary purpose is to represent the interests of the County Council, and in some the main duty is to the outside body. This may affect the considerations that are taken into account when contributing to the outside body's decision-making. Also, it is possible that a conflict of interest will arise between the Council and the outside body, for example where there is a disagreement over a funding issue. In the event this happens the representative must be clear in whose interests they are acting. If a conflict does arise the representative must seek advice from the Council's Monitoring Officer.
7. Representatives must follow the Council's Code of Conduct for Councillors or the Code of Conduct for Officers when they are acting in that capacity, including where they are representing the Council on an outside body. They must also ensure they follow any

separate code of conduct that applies to the outside body. In the unlikely event there is a conflict they must seek advice from the Council's Monitoring Officer.

8. Representatives should always consider their duty of confidentiality to the Council, and where appropriate, to the outside body.
  9. Representatives must report back to the relevant County Council committee as required.
  10. It is good practice to check when first appointed whether expenses for travel and/or subsistence should be claimed from the County Council or the outside body.
-

## **PROTOCOL FOR COUNCILLOR/EMPLOYEE WORKING RELATIONS**

### **INTRODUCTION**

1. Mutual trust and respect between Councillors and employees is at the heart of good governance for councils. They are essential elements of the partnership necessary for the effective running of a local authority.
2. This protocol is a written guide to the basic elements of the relationships between Councillors and employees and seeks to:
  - promote trust, openness, fairness and honesty;
  - define roles to clarify responsibilities, avoid conflict, prevent duplication and secure compliance with the law and codes of conduct;
  - maintain and enhance the integrity of local government which demands the highest standards of personal conduct.
3. This protocol should be read and operated in conjunction with the Council's constitution, codes of conduct relating to Councillors and employees and relevant legislative requirements.
4. Unless the context otherwise requires, reference to a Councillor will include reference to a co-opted member.

### **UNDERLYING PRINCIPLES**

5. Councillors and employees must at all times observe this protocol.
6. Councillors and employees must always respect the roles and duties of each other as set out below.

### **THE ROLE OF MEMBERS**

7. It is the role of Councillors:
  - To represent the people within their communities and bring their views into the Council's decision making process through working individually or in partnership
  - To promote the interests of the people of Nottinghamshire when acting collectively as the Council's decision-makers
  - To promote the social, economic and environmental well being of the community.
  - Collectively to agree the policy of the County Council
  - To deal with individual casework and act as an advocate for constituents in resolving concerns or complaints.

- To balance different interests within their electoral division and represent the division as a whole.
- To represent the Council on external bodies as required.
- To promote the highest standards of conduct and ethics.

## **THE ROLE OF OFFICERS**

8. It is the role of officers:

- To serve the community of Nottinghamshire and to deliver the highest standards of service in the most cost effective, efficient and professional manner.
- To implement the policies and decisions made by Councillors.
- To provide professional and technical advice.
- To carry out the functions delegated to them, including the management of staff.
- To provide help, support and advice to Councillors in respect of their duties and responsibilities
- To report to Government departments, as required.
- To represent the Council on external bodies as required.

## **THE RELATIONSHIP BETWEEN EMPLOYEES AND COUNCILLORS**

9. The relationship between employees and Councillors should be characterised by mutual respect and courtesy and recognition of each others roles and responsibilities.
10. Collaborative working between Councillors and employees is essential but close personal familiarity can lead to damaging assumptions by others. Councillors and employees should inform the Monitoring Officer of any relationship either personal or family, or business connection which might be seen as unduly influencing their work in their respective roles. The Monitoring Officer will consider what action, if any, should be taken.
11. With the exception of staff specially appointed to support political groups, employees work to the instructions of their managers not individual Councillors.
12. Councillors must not require employees to change their professional advice or take any action which the employee considers unlawful or illegal or which would amount to maladministration or breach of a statutory duty.
13. Councillors should not raise matters relating to the conduct or capability of a Council employee or of employees collectively at meetings held in public or in the press. Any concerns should be raised using the procedure set out at paragraph 25 below.

14. The advice provided and actions taken by employees should be sensitive to the political nature of the organisation, but their advice should always be independent and unbiased.
15. Members must consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration and financial impropriety and if they have doubts as to whether a particular decision is or is likely to be contrary to the policy framework or budget.
16. The Council has a statutory duty to positively promote equality. Councillors and employees should not by their manner, speech, or in any written communication, be discriminatory with regards to a person's age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

## **OFFICER RELATIONSHIPS WITH PARTY GROUPS**

17. It must be recognised by all employees and Councillors that in discharging their duties employees serve the Council as a whole and not exclusively any political group, combination of groups or individual Councillors.
18. Employees may properly be called upon to provide advice and information to political groups but must at all times maintain political neutrality. All employees must, in their dealings with political groups and individual Councillors, treat them in a fair and even handed manner.
19. Employees must respect the confidentiality of any party group discussions at which they are present and unless they are requested to do so by that party group, must not relay the content of such discussions to another party group or to any other Councillor.
20. The only basis on which the Council can lawfully provide support services (eg stationery, typing, printing, photocopying) to Councillors is to assist them in discharging their role in their official capacity as Councillor. Such support services must therefore only be used for Council business. They must never be used for party political or campaigning activity or for private purposes.

## **EMPLOYEES TO KEEP COUNCILLORS INFORMED ABOUT LOCAL ISSUES**

21. To enable them to carry out their divisional role effectively, Councillors need to be fully informed about matters affecting their division. Corporate Directors must ensure that their staff are aware of the requirement to keep local Councillors informed.
22. Whenever a public meeting is organised by the Council to consider a local issue it is recommended that all Councillors representing the divisions affected should be invited to attend the meeting.

## **MEDIA RELATIONS**

23. All relations with the media must be conducted in accordance with the Council's agreed procedures and the law on Local Authority publicity.
24. Employees will make every effort to keep Councillors informed of media interest in Council activities relevant to their responsibilities and the electoral divisions they represent, especially regarding strategic or contentious matters.

## **COMPLAINTS/CONCERNS**

### **Procedure for Councillors**

25. If a Councillor is dissatisfied with the conduct, behaviour or performance of an officer they should raise the matter privately with the relevant Corporate Director. If their concerns relate to a Corporate Director the concern should be raised with the Chief Executive. If the concerns relates to the Chief Executive then the concern should be raised with the Monitoring Officer and Service Director responsible for, Human Resources.

### **Procedure for employees**

26. If an employee is unhappy with the conduct or behaviour of a Councillor they should seek to resolve the matter by appropriate discussion and involvement of their Corporate Director.
27. In the event that matters remain unresolved they should inform the Monitoring Officer who will consider what action should be taken.

## **SUMMARY**

28. Councillors and employees can expect the following from each other:

- Respect and courtesy
- The highest standards of integrity
- A working partnership
- An understanding of and support for respective roles, work loads and pressures
- Confidentiality
- A commitment to the Council as a whole

29. In addition Councillors can expect from employees:

- Timely responses to enquiries
- Professional advice
  - Regular up to date information

# **CODE OF CONDUCT FOR OFFICERS**

## **INTRODUCTION**

1. The public is entitled to expect the highest standards of conduct from all officers of the County Council.
2. The Code sets out the standards of service that are expected from officers of the Council. In particular, officers should act in an open and transparent manner and should not do anything which would prejudice the reputation of the Council.
3. The Code should be read and operated in conjunction with the Council's Constitution and the Personnel Handbook. It is important officers understand their position as regards standards of conduct, and if in any doubt should seek guidance.

## **UNDERLYING PRINCIPLES**

4. All officers of the Council must at all times observe this Code. Failure to comply with the Code and the standards of service expected could result in disciplinary action.
5. All officers must act within the law whilst undertaking their official duties. Where an officer is a member of a professional body, the officer must also comply with any standards of conduct which are set by that body.
6. Officers are expected to:
  - a. Provide the highest possible standard of service to the public. Where officers are aware of any contraventions of this Code, illegality, misconduct or breach of procedure they should notify their line manager;
  - b. Provide appropriate advice to Councillors and other officers with impartiality.
7. Officers must consult the Monitoring Officer and the Chief Finance Officer if they have doubts about the legality of a decision, or suspect maladministration or financial impropriety.
8. The Code does not seek to address every possible circumstance, and simply because a particular action may not be addressed within the Code, this does not condone that action by omission.

## **PERSONAL INTERESTS**

9. Officers must declare to their Corporate Director any financial interests or non-financial interests which could or could be perceived to conflict with their role with the Council.
10. A record of any such interests will be maintained by the relevant Corporate Director.
11. Officers who have a direct or indirect financial interest in any contract must ensure that their Corporate Director is aware and should have no involvement with the award of or management of that contract.

12. If an officer is not sure about whether they have an interest, they should seek advice from the Monitoring Officer.

## **BRIBERY AND CORRUPTION**

13. Officers must be aware that it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity as a result of any such gift, etc.
14. It should be stressed that this covers all aspects of an officer's responsibilities. For example, showing favouritism to a client in the provision of a service in return for a favour or gift would be corrupt. As would awarding a contract to a contractor as a direct result of receiving a gift.
15. In particular:
  - a. Officers should not accept a gift or hospitality from a contractor or other person outside the Council if they know or suspect that it is offered or provided with the expectation that a commercial or contractual advantage will be provided in return;
  - b. Officers should not accept a payment from a contractor or other person outside the Council if they know or suspect that it is offered or provided with the expectation that they will obtain a commercial or contractual advantage in return;
  - c. Officers should not give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a commercial or contractual advantage will be received, or to reward a commercial or contractual advantage already given.

### **What to do if you are offered a gift**

16. It is reasonable to accept a modest gift of a promotional character given to a wide range of people, and not uniquely to the officer, such as calendars, diaries, pens and other articles of use in the office or job. Modest gifts at the conclusion of any courtesy visit to a factory or firm of the sort normally given by that firm may also be accepted.
17. From time to time, officers may be offered other higher value or personal gifts. You need to consider why you have been offered the gift. If you are in doubt as to the motive behind the gift, you should seek advice from your Corporate Director as to whether it is appropriate to accept it. No gift worth over £25 should be accepted under any circumstances. Any gift offered, whether accepted or refused, should be recorded in the departmental gift and hospitality register.

### **What to do if you are offered hospitality**

18. Officers of the Council should only accept offers of hospitality if they are invited in their role as a Council representative. Offers to attend purely social or sporting functions should be accepted only when these are significant for Nottinghamshire, or where the Council should be seen to be represented. Acceptance of such invitations should be cleared in advance with the relevant Corporate Director, and should be recorded in the departmental gift and hospitality register.

19. When hospitality has to be declined, the third party offering the hospitality should be courteously but firmly informed of the procedures and standards operating within the Council. When receiving hospitality, officers should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
20. There may be circumstances where it will not always be possible, or even desirable, to reject offers of hospitality on a modest scale. Acceptable examples would include official hospitality at a function organised by a public authority; refreshments following a site visit; or a working lunch of a modest standard to enable the parties to continue to discuss business. The decision whether to accept or not must depend on the circumstances in each case. These circumstances will also determine whether the hospitality needs to be entered in the register of officers' interests. If in doubt officers should err on the side of caution and enter the appropriate details in the departmental register of officers' interests.

### **Receiving sponsorship or grant aid**

21. Officers must provide details to their Corporate Director of any benefit they (or their partner, spouse or relative) may be likely to receive as a result of any proposed Council sponsorship or grant aid.

### **USE OF PUBLIC FUNDS**

22. Officers must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

### **POLITICAL NEUTRALITY**

23. Officers serve the Council as a whole. It follows they must serve all Councillors and not just those of the majority group, and must ensure that the individual rights of all Councillors are respected.
24. Officers may be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
25. Officers must follow Council policies and must not allow their own personal or political opinions to interfere with their work.

### **EQUALITY ISSUES**

26. The Council believes in equality and will not tolerate any harassment, intimidation, unfair discrimination or victimisation, by officers.
27. The Council has a statutory duty to promote equality. Officers should not by their manner or speech be discriminatory with regards to a person's age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

28. Each officer has a duty to ensure that the appropriate standards of conduct are upheld both by themselves and by colleagues at all times.

### **THE RELATIONSHIP BETWEEN OFFICERS AND COUNCILLORS**

29. Officers should refer to the Protocol for Councillor/Officer Working Relations in [section [x] of the Constitution].

### **THE RELATIONSHIP BETWEEN OFFICERS AND THE PUBLIC**

30. Officers should always remember their responsibilities to the community of Nottinghamshire and ensure courteous, efficient and impartial service delivery to all groups and individuals they have dealings with.
31. Officers should be cautious when blogging or using social networking sites outside of work and avoid publishing, or allowing to be published, any material, including comments or images, which could damage their professional reputation and/or bring the Council into disrepute.

### **THE RELATIONSHIP BETWEEN OFFICERS AND CONTRACTORS**

32. All relationships of a business or private nature with external contractors, or potential contractors, should be made known to an appropriate senior manager.
33. Officers must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
34. Officers who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
35. Further guidance on the procedures to follow during the tendering process is contained in [Section [x](Financial Regulations) of the Constitution].

### **APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

36. Officers involved in appointments should ensure that these are made on the basis of merit.
37. In order to avoid any possible accusation of bias, officers wherever possible should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her. If they must be involved, then the relationship must be disclosed to all the parties.
38. Similarly, officers should not be involved in decisions relating to discipline, promotion or pay adjustments for any officer who is a relative, partner etc.

### **WORKING FOR OUTSIDE ORGANISATIONS**

39. Officers working for outside organisations should refer to section c.6 of the Personnel Handbook and the Protocol for Involvement in Outside Bodies. [link to be added]

## **USE OF COUNCIL PREMISES OR FACILITIES FOR WORK NOT CONNECTED WITH THE COUNCIL**

40. Officers must not use the Council's premises or facilities for activities which are not connected with their employment with the Council, for instance the use of email, telephones, computers, photocopiers, typists, etc. A small amount of personal use may be acceptable.

## **PUBLIC SPEAKING**

41. Where officers are invited to address public meetings, undertake radio or television interviews etc, they will be acting as the representative of the Council, and as such should communicate the policies and procedures of the County Council in a factual and unbiased way. Officers must not express personal views in such situations.
42. If in a private capacity an officer is invited to comment publicly on Council policies, they should reflect upon the impact of this on the County Council's reputation and consider whether it is appropriate to comment.

## **OFFICERS FACING CRIMINAL CHARGES**

43. Any officer facing criminal charges must inform their line manager without delay.

## **HEALTH AND SAFETY**

44. It is the responsibility of all officers to take reasonable care for the health and safety of themselves and others.

## **DISCLOSURE OF INFORMATION**

45. Officers must not disclose information given to them in confidence without consent, unless the circumstances are exceptional. In this situation, advice should be sought from their line manager.
  46. Officers disclosing personal information must comply with the Data Protection Act.
  47. Officers should not use confidential information obtained in the course of their employment with the Council for personal use, nor should they pass it on to others who might use it for unauthorised purposes.
  48. Guidance about the information which Councillors and the public are entitled to is contained in [Section [x] (Access to Meetings, Minutes, Agendas and Reports) of the Constitution].
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## **TRAVEL AND ACCOMMODATION POLICY**

### **GENERAL**

1. This policy (the Nottinghamshire County Council Travel Policy) covers the approval and booking arrangements for travel and accommodation required in connection with the Council's business. It does not apply to travel and accommodation required in connection with direct service delivery e.g. school, trips, service users' outings, where the relevant Departments will have their own procedures.
2. This policy replaces all previous policies, decisions and/or precedents relating to travel undertaken in connection with the business of the Council.
3. The power to amend this policy is reserved to the full Council.
4. The practices in this policy shall, as far as possible, reflect the contents of the County Council's Members' Allowances Scheme and the Terms and Conditions of Service for Employees (see paragraph 9 of the Financial Regulations and D7 and D10 of the Personnel Handbook).
5. In the event that a conflict arises between this Policy and the Members' Allowances Scheme the Monitoring Officer and the Chief Executive will mediate and determine the matter following consultation with the Leader.

### **GENERAL PRINCIPLES**

6. The policy is based on the following principles:
  - a. the proper conduct of business, and the overall efficiency of the Council;
  - b. transparency and accountability;
  - c. achieving Best Value in the use of the Council's resources, benefiting the community, the Council and councillors;
  - d. meeting the needs of those with disabilities and/or health problems.

### **APPROVAL PROCESSES**

7. The following travel may be undertaken without prior approval:
  - a. day to day travel within Nottinghamshire in connection with Nottinghamshire County Council business;
  - b. travel in connection with training and development events within the East Midlands which have been authorised in accordance with relevant policies.
8. All other travel must be approved in advance in accordance with the following:

Participant	Description	Approval required from
Councillors, Statutory and other co-opted members	(a) All travel within mainland UK not described in Schedule 2 of the Members' Allowances Scheme.	Administration Sub-Committee
	(b) Outside the UK	Administration Sub-Committee
Officers	(a) Within the UK	Relevant chief or other officer in accordance with departmental procedures
	(b) Outside the UK	Administration Sub-Committee

9. The County Council recognises that, in cases of genuine urgency, it may not be possible to obtain formal approval from the Administration Sub-Committee prior to the expected date of travel. In these cases, the Urgency Procedure (section [x] of the Constitution) should be used.

### **BOOKING ARRANGEMENTS**

10. With the exception of travel by private car in connection with the day to day business of the Council, all arrangements and/or bookings for travel and accommodation approved under this policy must be made by Transport and Travel Services in the Environment and Resource Department.

11. Provisional bookings will not be made unless approval has been given in accordance with paragraph 8 of this policy.

### **METHOD OF TRAVEL**

12. At all times, the chosen method of travel must be the most cost-effective method, taking into account the value of time saved, anticipated subsistence and other expenses and any other relevant matters.

#### **Travel within the UK (mainland)**

13. Public transport should normally be used, unless the use of private/self-drive hire/civic cars is proved to be the most cost effective option, taking into account mileage charges, anticipated subsistence, other expenses and any other relevant consideration including but not limited to those at paragraph 12.

14. The use of private cars to attend events out of the County area must be determined in relation to the following criteria:

- a. cost in comparison to other options;
- b. availability of public transport;

- c. business requirements;
  - d. disability or health considerations.
15. Other options which must be considered prior to approving the use of private cars are:
- a. car sharing;
  - b. use of hire cars/pool cars;
  - c. use of civic cars.
16. Any travel by train within mainland UK will usually be standard class fare unless travel by other classes of ticket is cheaper overall.
17. Any councillor or officer requesting first class rail travel must give reasons which shall be recorded in the register referred to the section below.
18. Councillors are encouraged to purchase appropriate railcards if eligible, in which case the Council will reimburse two-thirds of the cost. Councillors should advise Transport and Travel Services that they have a railcard at the time of booking, to ensure that a reduced price ticket is obtained.
19. Air travel within mainland UK will be permitted only where the cost/convenience brings benefits to the Council.

### **Travel to Northern Ireland/Republic of Ireland/Outside the UK**

20. Where available, and subject as follows, economy class should be used for all air, sea or land (i.e. rail) travel where this the most cost effective.
21. The County Council recognises that there will be occasions where it is not appropriate to use economy class i.e. where there are health or disability issues to be considered. In these cases, a higher class of travel may be permitted, wherever possible, subject to prior approval being by Administration Committee.

### **ACCOMMODATION**

22. Mid range hotels of good standard with appropriate business facilities will be chosen within safe and reasonable access to where the business of the visit is to take place.
23. For conferences, the added value of all-inclusive packages will be evaluated against making separate hotel arrangements.

### **SUBSISTENCE AND OTHER EXPENSES**

#### **Within the UK (including Northern Ireland)**

24. All costs of the approved method of travel will be paid by the County Council.
25. Subsistence allowances may be claimed in exceptional circumstances. They will be the same for councillors, Statutory Co-optees, other co-opted Members and officers. Details of the amounts which may be claimed are in the Members' Allowances Scheme.

26. Claims should be made on the forms provided as follows:

- a. officers – from their Department;
- b. councillors and others covered by the Members' Allowances Scheme – from Democratic Services.

27. Receipts should be obtained for all expenditure incurred.

### **Outside the UK**

28. Accommodation will be booked and paid for by Transport and Travel Services in the Environment and Resource Department on behalf of the County Council.

29. Subsistence allowance may be claimed for actual reasonable expenses incurred on meals, beverages, transport within the foreign country, laundry, 'phone calls etc.

- a. The current maximum amount for subsistence per 24 hours for countries within the European Union is £75.00 (plus £10 per day for unreceipted out of pocket expenses).
- b. For travel to other destinations, Transport and Travel Services will calculate a maximum amount for subsistence per 24 hours. That amount will be notified to Administration Sub-Committee when approval is sought for the travel to be undertaken.

30. The above rates assume that all meals (excluding breakfast) will have to be paid for from the subsistence allowance. If meals are provided as part of the visit and at no personal cost to the Council's representative(s) the daily allowance will be reduced by 20% for each meal provided.

31. Receipts must be obtained wherever practicable for all claimable expenditure. Where this is not possible, a written statement will be required from the person claiming allowances.

### **ADMINISTRATION OF THE POLICY**

32. All travel tickets and/or accommodation required under this policy must be booked through Transport and Travel Services in the Environment and Resource Department.

33. Before any bookings are made, Transport and Travel Services will require written confirmation of approval. Where the cost is to be met by a Department, the appropriate budget code(s) for the expenditure will also be required.

34. Subject to normal formalities, Transport and Travel Services can arrange advances of cash, foreign currency and travellers' cheques. Any unspent cash/currency or travellers cheques must be returned to Transport and Travel Services within one month of return from the visit.

35. All claim forms, together with receipts and details of expenses incurred must be submitted within one month of return from the visit.

36. County Council credit cards must only be used for claimable expenses incurred in carrying out the County Council's business and all receipts/vouchers in respect of any expenditure met in this way must be passed to Financial Services within one month of return from the visit.

37. Where the Council's representative wishes, for personal reasons, to extend their stay at the destination to which they have travelled, this is permitted on the strict understanding that no additional cost falls to be met by the Council and that all expenses in connection with the extension of stay are reimbursed before the date of outward travel.
38. Where the Council's representative is accompanied by a partner, the Council must be reimbursed for all expenses to be incurred in respect of travel arrangements made by Transport and Travel Services in respect of the partner before the date of outward travel.

## **RECORD KEEPING**

39. Transport and Travel Services will maintain a public register of the following information in respect of each item or travel undertaken under this policy:
- a. name of traveller/participant;
  - b. purpose of travel/visit;
  - c. dates of travel;
  - d. destination;
  - e. method/class/cost of travel and/or accommodation;
  - f. cost of insurance;
  - g. amount(s) of allowances paid;
  - h. details of the date approval was given and the identity of the decision maker (including details of specific additional approvals from time given in respect of, for instance, travel by other than standard class);
  - i. the date on which the Council's representative(s) submitted a report on the outcome/value of the visit, where appropriate.
40. The register shall be available for public inspection and shall be published on the Council's website.
41. Annual reports shall be made to the Administration Sub-Committee which shall give:
- a. details of the totality of travel undertaken under this policy;
  - b. information as to occasions upon which other than standard/economy class travel or its equivalent has been used.
-



## APPENDIX B

### PROPOSED CHANGES TO PROCEDURE RULES FOR MEETINGS OF THE FULL COUNCIL

It is proposed that the following changes (shown in bold) be made to the procedure rules for meetings of Full Council:-

#### 2. ARRANGEMENTS FOR MEETINGS

- 2.6 A special meeting will be arranged if the Chairman of the Council, the Council Leader, or any **five** County Councillors request such a meeting. A Special Meeting will be held on any day of the week.

#### 9. QUESTIONS TO COMMITTEE CHAIRMEN

- 9.1. At any meeting of the Full Council, except the annual budget meeting, a Councillor may ask any committee chairman one or more questions on matters within the remit of their committee. **A maximum of 30 minutes is allowed for questions to Committee Chairmen after which any remaining questions will be dealt with under the procedure set out in 10.1.**
- 9.2. At any meeting of the Full Council, except the annual budget meeting, a Councillor may ask the Chairman of Nottinghamshire Police Authority or Nottinghamshire and City of Nottingham Fire Authority one or more questions on matters within the remit of their authority. **A maximum of 30 minutes is allowed for these questions after which any remaining questions will be dealt with under procedure set out in 10.1.**
- 9.3. Councillors must post a copy of their question(s) **under paragraph 9.1 and 9.2** in the box in Democratic Services or email [council.questions@nottscc.gov.uk](mailto:council.questions@nottscc.gov.uk) no later than 10 am two working days before the meeting.
- 9.4. The order in which questions are put at the meeting will be determined by the Chairman.
- 9.5. After receiving an answer from the relevant chairman, or their nominee, that Councillor, or any other Councillor, may ask supplementary questions on the same matter. The original questioner has the right to ask the first supplementary question. The number of supplementary questions allowed will be at the discretion of the Chairman **having regard to 9.1 and 9.2 above.**
- 9.6. Instead of asking a supplementary question the original questioner has the right to require a debate. Such a request must be made prior to any supplementary questions being asked. If the motion for a debate is seconded the matter will then be adjourned for debate later in the meeting under the 'Adjournment Debate' item on the agenda and no supplementary questions can be asked.
- 9.7. The same supplementary question procedures apply to questions to the Chairman of the Police Authority or the Fire Authority except that there is no right to request an adjournment debate.

## **10. QUESTIONS REQUIRING A WRITTEN RESPONSE**

- 10.1. Any Councillor may at any time, by writing to Democratic Services, put a question to a committee chairman and will be sent a reply within 15 working days. Every such question and the answer given will be included for information with papers for the next convenient Full Council meeting.

## **PROPOSED CHANGE TO PROCEDURE RULES FOR COMMITTEE AND SUB-COMMITTEE MEETINGS**

### **4. ORDER OF BUSINESS**

4.1 The order of business will usually be:

1.1.1. at the first meeting after the annual Council meeting, appointing or noting the appointment of the Chairman and Vice-Chairman of the committee

1.1.2. the choice of a person to preside if the Chairman and Vice-Chairman are absent

1.1.3. confirmation of the minutes of the last meeting of the committee

1.1.4. apologies for absence, including reasons

1.1.5. declarations of interest

1.1.6. business outstanding from the last meeting

1.1.7. reports for decision by committee

1.1.8. reports for information

**1.1.9. work programme (if applicable)**

### **22. PERSONNEL COMMITTEE**

**22.1 That Trade Union representatives be entitled to speak but not vote at meetings of Personnel Committee.**

### **23. OTHER**

**23.1** Placards, banners, advertising materials and similar items are not permitted in any committee meeting.

**23.2** Other than any recording carried out by approved Council staff, the use of recording devices and cameras is only allowed with the consent of the Chairman. If consent is given the Chairman will notify the committee at the start of a meeting and in the event of objection by Councillors a vote will be taken.

**23.3** Mobile phones must be switched to silent.



## APPENDIX C

### PETITIONS SCHEME

1. The County Council welcomes petitions and recognises them as an important way people can let us know their concerns.
2. To send us a paper petition you should contact your local County Councillor to act as your representative to present the petition to a meeting of the County Council. These meetings take place on a regular basis. Dates and times can be found here on the [County Council website](#).
3. Your County Councillor will talk you through the process for submitting a petition. The petition should be handed over to a County Councillor at least 2 working days before the meeting that you would like it presented to.
4. If you prefer, you can send your petition to Democratic Services at County Hall, who will ensure it is directed your local County Councillor. Receipt of the petition will be acknowledged to the petition organiser.

### WHAT ARE THE GUIDELINES FOR SUBMITTING A PETITION?

5. Petitions submitted to the County Council should include a clear and concise statement covering the subject of the petition. The petition should state:
  - a. what action the petitioners wish the Council to take
  - b. the name, post code and signature of any person supporting the petition
6. Other procedures apply if the petition is about:-
  - a. a planning, licensing or rights of way matter. You may be able to speak at the committee meeting which considers the matter. Democratic Services can advise you about this.
  - b. the Council's annual budget, when the petition would be considered as part of the budget consultation process
  - c. a statutory petition (for example requesting a referendum on the County Council's governance arrangements)
  - d. a matter where there is an existing right of appeal.
7. If a petition is judged by the Monitoring Officer, in consultation with the relevant committee chairman, to be vexatious, abusive or otherwise inappropriate, or if it does not follow the guidelines set out in this scheme, the County Council may decide not to do anything further with it. In such cases, we will write to you to explain the reasons.

8. Petitions should be accompanied by contact details - including an address - for the petition organiser. This is the person we will contact to explain how we will respond to the petition.
9. Your petition must be signed by at least one other person from a different address and everyone signing the petition must provide their name, post code and signature. This information may be checked by the County Council.
10. Petitions should be about issues that affect Nottinghamshire.

## **E-PETITIONS**

11. You can also use the County Council website to set up an online petition. Once this has been moderated and approved you can collect signatures via the web and submit the petition online.
12. The County Council welcomes e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions.
13. The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures; this will usually be for 2 months, with a maximum of 6 months.
14. When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for others to sign.
15. If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 14 days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
16. When an e-petition has closed for signature, it will automatically be submitted to your local Councillor. An acknowledgement and, in due course, a response will be emailed to everyone who has signed the e-petition and chosen to receive this information. The acknowledgment and response will also be published on the Council's website.

## **SIGNING AN E-PETITION**

17. When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition.
18. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

## **WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?**

19. The local County Councillor will formally present the petition in public at a meeting of the County Council. The Vice-Chairman of the County Council may present the petition if it concerns more than one electoral ward. The petition will then be passed to the appropriate committee to provide a response. Members of the public are entitled to attend Committee meetings unless exempt information is being discussed. We will confirm the committee's response to the petition organiser. We will inform the organiser of the petition of the committee's response. We will also report the response to Full Council.



## APPENDIX D

### MATTERS RESERVED TO FULL COUNCIL FOR DECISION

#### THE FULL COUNCIL

1. The functions listed below are reserved to the Full Council and can only be discharged by the Full Council:
  - 1.1. Determining all policies, plans and strategies statutorily reserved to the Full Council including: -
    - **Annual library plan/strategy**
    - **Crime and disorder reduction strategy (Community Safety Agreement)**
    - **Local transport plan**
    - **Plans and alterations which together comprise the Development Plan**
    - **Sustainable community strategy**
    - **Youth justice plan (Youth Crime Strategy)**
  - 1.2. **The approval or adoption of a plan or strategy for the control of the Council's borrowing, investments or capital expenditure, or for determining the Council's minimum revenue provision; the Budget**
  - 1.3. **The approval of any of the above documents in the event they, or part of them, need to be submitted to the Secretary of State or any Government Minister for final approval, including where they are to be submitted in draft form**
  - 1.4. **The approval of changes to any plan or strategy referred to above, unless: -**
    - a. **that change is required by the Secretary of State or any Government Minister where the plan or strategy has been submitted to them for approval, or**
    - b. **Full Council specifically delegated authority in relation to these functions when it approved or adopted the plan or strategy.**
  - 1.5. Adopting and changing the Constitution
  - 1.6. Establishing committees and deciding their terms of reference and size
  - 1.7. Appointing and removing chairmen and vice-chairmen
  - 1.8. Authorising appointments to any joint committees
  - 1.9. Authorising appointments to the Nottinghamshire and City of Nottingham Fire Authority
  - 1.10. Approving a Members' Allowances Scheme **including any provision for Chairman's and Vice Chairman's expenses**
  - 1.11. Approving the annual Senior Officer Pay Policy Statement

- 1.12. Confirming the appointment of, and dismissing, the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer
- 1.13. **Making any request to the Local Government Boundary Commission for England for single-member electoral areas**
- 1.14. **The passing of a resolution to change the County's electoral scheme**
- 1.15. **Making an order to give effect to recommendations made in a community governance review**
- 1.16. **In relation to any overview and scrutiny committees, permitting a co-opted member to vote at meetings of that committee**
- 1.17. Changing the name of the County
- 1.18. Conferring the title of honorary alderman
- 1.19. Making, amending, revoking, re-enacting and adopting bye-laws and promoting and opposing the making of local legislation and personal bills in Parliament
- 1.20. Any other function which, by law, must be reserved to the Full Council