

## Appendix 3 Standing Orders

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## Part A - Council Procedure Rules

### 1. Meetings of the Council

Types of Council meeting

1.1 The Council meets collectively for four types of meetings:

- i) The Annual meeting
- ii) Ordinary meetings
- iii) Extraordinary meetings
- iv) Special meetings

#### The Annual Meeting

1.2 The annual meeting take place once a year. In a year in which there is an ordinary election of Councillors, the Annual Meeting of the Council must be held within 21 days of the retirement of the outgoing Councillors. In any other year the Annual Meeting must be held in May.

1.3 The Annual Meeting of the Council will normally be held at 6.30pm on the third Tuesday in May of each year but either the Council or the Mayor may direct that it be held on a different date or time. The Mayor can only use this power if he issues the direction before the summons to attend the Meeting has been sent to Councillors.

1.4 The Annual Meeting shall:

- i) approve as a correct record and sign the minutes of the last meeting of the Council.
- ii) receive any declarations of interest from Members;
- iii) elect the Mayor;
- iv) elect the Deputy Mayor;
- v) receive any announcements from the Mayor;
- vi) elect the Executive Leader;
- vii) agree the number of Members to be appointed to the Executive and appoint those Members;
- viii) appoint such Committees and Sub-committees of the Council as it may consider appropriate, but including at least one Overview and Scrutiny Committee and a Standards Committee, and determine their terms of reference;
- ix) unless the Council determines otherwise, appoint Members to be the Chairs and Vice-Chairs of those Committees and Sub-committees;
- x) approve a programme of Ordinary Meetings of the Council for the ensuing Municipal Year; and;
- xi) Consider any other business set out in the agenda.

## Ordinary Meetings

- 1.5 Ordinary meetings of the Council will take place in accordance with a programme decided at the Annual Council meeting. There will be a minimum of three Ordinary meetings in each year. The agenda for these meetings is set out in Rule 5.

## Extraordinary meetings

- 1.6 Extraordinary meetings may be called to deal with specific business set out in the summons for the meeting. No other business may be transacted at an Extraordinary meeting.
- 1.7 Any of the following may call on the Chief Executive to summon Members to attend an Extraordinary Meeting;
- (a) The Mayor;
  - (b) The Executive Leader;
  - (c) Any five Members of the Council. These Members must first sign a requisition for an Extraordinary Meeting and present it to the Mayor. If the Mayor then refuses to call an extraordinary meeting or fails to do so within seven days of the presentation of the requisition then the Members may call on the Chief Executive to issue the summons for that meeting.
- 1.8 Any call for an Extraordinary meeting should be in writing, specifying the business for which it is called, and delivered to the Chief Executive.
- 1.9 On receiving a valid call for an Extraordinary Meeting, the Chief Executive shall forthwith summon the meeting.

## Special Meetings

- 1.10 The Council may, at the Annual Meeting, or at any other time make arrangements for special meetings. The principal business to be transacted at Special Meetings will be matters of more than usual importance to the Council.
- 1.11 The meeting at which the Council tax is set and the meeting at which the Corporate Strategy is agreed will be designated Special Councils.
- 1.12 Special Meetings of the Council shall deal with the following business in order:
- i) choose a Member to preside if the Mayor and Deputy Mayor are not present;
  - ii) approve as a correct record and sign the minutes of the last meeting of the Council;
  - iii) receive any declarations of interest from Members;
  - vi) receive any announcements from the Mayor, the Executive Leader, other Executive Members or the Chief Executive;
  - vii) receive any public questions which have been notified and which relate to the business to be transacted at the meeting;
  - viii) consider the special business for which the meeting has been called and which is specified in the summons for the meeting;

## Venue for meetings

- 1.13 All meetings of the Council shall be held at the Town Hall, Chorley unless the Council decides otherwise.

## 2. Presiding at meetings of the Council

The Mayor, if present, shall preside at a meeting of the Council. If the Mayor is absent, the Deputy Mayor shall preside. If both are absent, the Council will select another Member to preside. Any person presiding at a meeting of the Council may exercise any power or discharge any duty of the Mayor in relation to the conduct of the meeting.

## 3. Notice of and Summons to attend meetings

The Chief Executive will give notice to the public of the time and place of meetings of the Council, in accordance with the Access to Information Rules. At or before giving that notice and, in any case, at least five clear days before a meeting (that is five days excluding the day that notice is given and the day of the meeting), the Chief Executive will also send a summons, signed by him or her, to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of the meeting and specify the business to be transacted. It will be accompanied by such reports in relation to the business as are available.

## 4. Quorum and length of meetings

### Quorum

- 4.1 The quorum for Council meetings is one-quarter of the Membership.

### Effect of no quorum or failure to conclude business by 10 p.m.

- 4.2 Any meeting of the Council shall immediately adjourn if;
- (a) the Mayor, after counting the number of Members present, declares that there is not a quorum; or
  - (b) the business of the meeting has not been concluded by 10pm.

### Meeting to consider outstanding business

- 4.3 Any remaining business shall be considered at a time and date fixed by the Mayor at the time the meeting is adjourned, or, if the Mayor does not then fix a time, at the next Ordinary Meeting of the Council.

## 5. Ordinary Meetings of the Council

### Agenda and Order of Business

- 5.1 Ordinary Meetings of the Council shall deal with the following business in order:
- i) choose a Member to preside if the Mayor and Deputy Mayor are not present;
  - ii) approve as a correct record and sign the minutes of the last meeting of the Council;
  - iii) receive any declarations of interest from Members;

### Pecuniary Interests

- Where a Member has a pecuniary interest in an agenda item they should declare this at the commencement of the meeting and, immediately prior to the consideration of the agenda item, leave the room for the duration of that item.
  - Where during consideration of an agenda item, it becomes apparent that the Member has a pecuniary interest, the Member should immediately declare it and leave the room for the remainder of the item.
- iv) receive any announcements from the Mayor, the Executive Leader, other Executive Members or the Chief Executive;
  - v) receive any public questions which have been notified;
  - vi) receive and consider reports from the Executive and the Overview and Scrutiny Committee of the Council;
  - vii) receive and consider any report from the Standards and Audit Committees;
  - viii) receive answers to questions notified under Rule 8;
  - ix) consider any other business that may be specified in the summons to attend the meeting; and
  - x) consider motions of which notice has been given under Rule 10;
  - xi) consider any other item of business which, in the opinion of the Mayor, must be considered as a matter of urgency.

### **Varying Order of Business**

5.2 The order of business may be varied:

- (a) by the Mayor at his or her discretion; or
- (b) by a resolution of the Council passed at the meeting on a motion duly moved and seconded.

5.3 Any such motion, once moved and seconded, shall be put and then voted on without discussion.

### **6. Public Questions**

Members of the public may ask a question on any item on the Agenda for the Council meeting but must submit their questions to the Chief Executive by midday on the day, two working days before the day of the meeting.

A Member of the public may when asking their question speak for up to three minutes to explain the context for the question.

Having received an answer to their question the Member of the public may ask one supplementary question.

Questions shall be directed to the Mayor, the Executive Leader, any other Executive Member to whose portfolio responsibilities the matter relates or the Chair of a relevant Committee of the Council.

If he considers that the question could more appropriately be answered by another Member, a Member to whom a question is directed may with the agreement of the other Member, refer the question to him.

The maximum time allowed for public questions at a meeting of the Council will be thirty minutes. Any question which is unanswered at that time will receive a written response.

## **7. Questions by Members on reports (No Notice)**

- 7.1 When a report of the Executive or of a Committee of the Council is under consideration or being received at a meeting of the Council, a Member may, without prior notice, ask a question upon an item within the report. Any further questions asked by the Member must relate to a different item within the report.
- 7.2 The Member shall direct the question to the Executive Leader, Committee Chair or other Member submitting the report or moving its acceptance.
- 7.3 The Member to whom a question has been put may decline to answer or, if he considers that the question could more appropriately be answered by another Member, may with the agreement of the other Member, refer the question to him.

### Supplementary questions

- 7.4 A Member who has received an answer to a question given without notice may ask one supplementary question arising from the answer given.

## **8. Questions by Members (With Notice)**

### **Questions which may be asked**

- 8.1 A Member may ask a question on any matter in relation to which the Council has powers or duties or which affects the Borough but must first give notice in accordance with Rule 8.2.

### **Procedure for Notice**

- 8.2 The notice must be in writing and state the full wording of the question and specify the Member of the Council to whom it is directed.
- 8.3 The question may be directed to the Mayor, the Executive Leader, any other Executive Member to whose portfolio responsibilities the matter relates or the Chair of a relevant Committee of the Council.
- 8.4 The notice must be given to the Chief Executive and received by him or her not less than three clear days before the day of the meeting at which the question is to be asked (which means that the day that the notice is received and the day of the meeting are not counted)

### **Answering Questions**

- 8.5 Every question under this Rule shall be put and answered without discussion.
- 8.6 The Member to whom a question has been put may decline to answer or, if he considers that the question could more appropriately be answered by another Member, may with the agreement of the other Member, refer the question to him.
- 8.7 If the Member to whom a question under this Rule has been directed is not present at the meeting, the question may at the meeting be addressed to and answered by some other appropriate Member, if that Member so agrees.



8.8 An answer may take the form of:

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

Supplementary questions

8.9 A Member who has received an answer to a question given on notice may ask one supplementary question arising from the answer given.

## **9. Motions and amendments which may be moved without notice**

The following motions and amendments may be moved without notice:

- (a) the appointment of a chairman of the meeting at which the motion is moved;
- (b) motions relating to the accuracy of the minutes;
- (c) changing the order of business in the Agenda;
- (d) to refer something to an appropriate body or individual;
- (e) the receipt of reports of the Executive, Committees or Officers;
- (f) to pass relevant resolutions arising from any item of the Agenda;
- (g) that leave be given to withdraw a motion;
- (h) extending the time limit for speeches;
- (i) amendments to motions;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn the meeting;
- (n) to suspend any one or more of these Rules, in whole or in part;
- (o) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- (p) that a Member named under Rule 12 be not further heard or do leave the meeting;
- (q) giving a consent of the Council where the consent of the Council is required by these Rules.

## **10. Notice of Motion**

### **Procedure for Notice**

- 10.1 If Rule 8 does not apply then a motion can only be moved if notice of it has been given. The notice must be signed, by at least one Member of the Council, and must be received by the Chief Executive at least five clear days before the meeting at which it is proposed to move the motion (meaning that the day of delivery and the day of the meeting are excluded).

### **Subject matter for motions**

- 10.2 A motion of which notice is given under this Rule must be about a matter or matters for which the Council has a responsibility or which affect the Borough.

### **Procedure for handling notices of motions**

- 10.3 On receipt of a notice of a proposed motion, the Chief Executive shall enter details of the notice and the proposed motion, including its date and time of receipt, in a book open to public inspection.
- 10.4 Motions for which notice has been validly given shall be listed on the Agenda in the order in which they have been received unless the Member who gave the relevant notice states in writing to the Chief Executive that he or she proposes to move it to a later meeting or withdraw it.

### **Motions not moved and seconded**

- 10.5 Any motion which appears on the Summons which is not moved and seconded at the meeting will be treated as withdrawn, unless its postponement is agreed.

## **11. Minutes of previous meetings**

### **Moving the approval of minutes**

- 11.1 When minutes of previous meetings are before a meeting, the Mayor shall move or invite a motion that the minutes be approved and signed as correct records.

### **Limits on Discussion**

- 11.2 The accuracy of the minutes may be raised but no other discussion is allowed. If no question as to the accuracy of the minutes is raised, or if such a question is raised, then, as soon as it has been disposed of, the Mayor shall sign the minutes.

### **Procedure at Extraordinary Meetings**

- 11.3 The minutes of an Ordinary or Special Meeting of the Council may be signed at the next Ordinary Meeting of the Council, rather than at the next following meeting, if the next following meeting is an Extraordinary Meeting.

## **12. Rules of debate for Council meetings**

### **No speeches until motion moved and seconded**

- 12.1 A motion or amendment shall not be discussed unless it has been proposed and seconded.

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

- 12.2 The Mayor may require that any motion which has been moved without notice be put into writing and handed to him before it is discussed.

### **Secunder's Speech**

- 12.3 A Member who seconds a motion or amendment may speak immediately or may indicate that he wishes to reserve his speech until a later period of the debate.

### **Mayor to determine order of speaking**

- 12.4 A Member who wishes to speak should indicate that wish to the Mayor. The Mayor will call on one Member to speak. All other Members shall remain seated. A Member may, however, rise on a point of order or point of personal explanation at any time.

### **Members to stand when speaking**

- 12.5 When speaking a Member shall stand and address the Mayor. The requirement to stand shall not apply to any Member who finds it difficult or impossible to do so as a result of a disability or infirmity.

### **Points of order**

- 12.6 A point of order relates to an alleged breach of these Rules, the Constitution or a statutory provision. It is a request for the Mayor to rule on that alleged irregularity.
- 12.7 A Member raising a point of Order must indicate the Rule or law in question and the way he or she considers it has been broken.
- 12.8 If a Member rises on a point of order then any Member who is speaking at that time must sit down immediately. The Mayor will rule on the point of Order and then invite the Member who was speaking before the point of Order was raised to resume.

### **Points of personal explanation**

- 12.9 If a Member believes that a material part of a previous speech made by him or her appears to have been misunderstood in the present debate then he or she may rise on a point of personal explanation to correct the misunderstanding.
- 12.10 If a Member rises on a point of personal explanation then any Member who is speaking at that time must sit down immediately and remain seated until called upon by the Mayor to resume.

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

- 12.11 Speeches must be directed to the question under discussion, to a personal explanation or to a point of order.
- 12.12 At a Special Meeting of the Council the Leader of each political group or person nominated by him may speak on the special business for such period of time as seems to the Mayor to be appropriate given the significance of that business.
- 12.13 In other cases no speech shall exceed five minutes unless the Council agrees otherwise.

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

12.14 A Member may only speak once on a motion except:

- (a) to speak once on an amendment moved by another Member;
- (b) if the motion has been amended since they last spoke, to move a further amendment;
- (c) if their speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which they spoke was carried;
- (d) in exercise of a right of reply given by Rule 12.11 or Rule 12.13.(a);
- (e) on a point of order; or
- (f) by way of personal explanation about some material part of their speech which has been misunderstood.

### **Amendments to motions**

12.15 An amendment shall be relevant to the motion and shall be either:

- (a) to refer the matter for consideration or reconsideration to the Executive or to a Committee;
- (b) to leave out words;
- (c) to leave out words and insert or add others, or
- (d) to insert or add words;
- (e) as long as the effect is not to negate the motion.

12.16 Usually only one amendment may be moved and discussed at a time. However the Mayor may permit two or more amendments to be discussed together (but not voted upon) if he or she considers that this would allow the Council's business to be dealt with more effectively.

12.17 If an amendment is lost, other amendments may be moved on the original motion. If an amendment has been carried, the Mayor shall read out the amended motion before accepting any further amendments. No further amendment may be moved that would have the effect of reviving the original motion.

### **Alteration of motion**

- 12.18 (a) The mover of a motion may with the consent of the meeting alter the motion if it has not yet been seconded. The meeting's consent will be signified without discussion.
- (b) The mover of a motion may alter a motion which he/she has moved and which has been seconded with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

### **Withdrawal of motion or amendment**

12.19 A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council. That consent shall be signified without discussion. No Member may speak upon it after the mover has asked permission for its withdrawal, unless permission is refused.

### **Right of reply**

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

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

12.21 When a motion is under debate no other motion shall be moved except the following:

- (a) to amend the motion,
- (b) to adjourn the meeting,
- (c) to adjourn the debate,
- (d) to proceed to the next business,
- (e) that the question be now put,
- (f) that a Member be not further heard or do leave the meeting ,
- (h) to exclude the public in accordance with the Access to Information Procedure Rules, or
- (i) to remit the matter to the Executive or a Committee or sub-Committee.

### **Closure motions**

12.22 When any the motions set out below has been moved and seconded, the Mayor shall proceed as follows:

- i) on a motion to proceed to next business:

If the Mayor thinks that the matter has been sufficiently discussed, the Mayor shall first give the mover of the original motion a right of reply to this motion and then put it to the vote.

- ii) on a motion that the question be now put:

If the Mayor thinks that the matter has been sufficiently discussed, the Mayor shall first put this motion to vote. If it is passed, the Mayor shall then give the mover of the original motion the right of reply under Rule 11.11 before putting that motion to the vote.

- iii) on a motion to adjourn the debate or the meeting:

If in his or her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on this occasion, the Mayor shall put this motion to the vote without giving the mover of the original motion a right of reply.

### **13. Motions affecting persons employed by the Council**

The Council shall not discuss any matter to which the powers to exclude the press and public contained in Schedule 12A of the Local Government Act 1972 applies until the meeting has decided whether or not to exercise those powers

### **14. Members conduct**

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

14.1 If a Member is guilty of misconduct during a meeting, the Mayor or any other Member may move, "that the Member named be not further heard". If seconded, the motion will be voted upon without discussion.

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

14.2 If the Member then continues his or her misconduct, the Mayor shall either:

- (a) move "that the Member do leave the meeting". That motion shall then be voted upon without seconding or discussion; or
- (b) adjourn the meeting of the Council for such period as the Mayor may consider expedient.

#### **Effect of mayor standing**

14.3 If the Mayor stands up during a debate any Member standing at the time must sit down. The meeting shall be silent.

### **15. Disturbance by members of the public**

15.1 If a Member of the public interrupts proceedings, the Mayor shall warn the person. If they continue the interruption, the Mayor shall order their removal from the meeting.

15.2 If there is a general disturbance in any part of the meeting room which is open to the public the Mayor shall order that part of the room to be cleared and may adjourn the meeting for as long as he considers expedient.

### **16. Rescission of previous decisions and motions**

Motion to rescind a previous decision

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

#### **Motion similar to one previously rejected**

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

16.3 Nothing in this rule prevents the Council making or altering appointments to any body.

## **17. Voting**

### **Show of hands**

17.1 Voting shall be by show of hands, unless a recorded vote is requested by one or more Members before the vote is taken.

### **Recorded Votes**

17.2 On a recorded vote the Chief Executive shall ask each Member in turn how they vote. The names of each Member voting for or against the amendment or abstaining from voting shall be recorded and entered in the minutes.

### **Recorded Votes at Annual Budget Council**

17.3 A recorded vote must be taken at the annual budget council on any decision relating to the budget; the setting of Council tax; or the issuing of precepts, including any amendments. This is in compliance with regulations relating to standing orders.

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

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

## **18. Voting on appointments**

18.1 Where there are more than two persons nominated for any position to be filled and there is not a clear majority of votes in favour of one person, the name of the person having the least number of votes shall be taken off the list and a new vote taken. The process shall continue until there is a majority of votes for one person.

## **19. Record of attendance**

19.1 All Members who attend the whole or part of a meeting must sign their names on the attendance sheets before the end of the meeting and their presence will be recorded in the minutes.

19.2 If a Member leaves a meeting before it has ended the time of his or her departure shall be recorded in the minutes

## **20. Exclusion of Public**

20.1 All meetings of the Council will be held in public unless Members of the public and press have been excluded in accordance with either the Access to Information Procedure Rules or Rule 15 (Disturbance by Public).

## **21. Suspension and amendment of Council procedure rules**

### **Rules which may not be suspended**

21.1 The following Rules may not be suspended:

- (a) Rule 11 (Minutes of Previous meetings)

- (b) Rule 17.3 (Right to require individual vote to be recorded)
- (c) Rule 28 (Right of mover of motion to attend Committee to which motion referred)

21.2 Any other Rules, may be suspended in whole or in part:

- (a) following a notice of motion in accordance with Rule 10 or;
- (b) if at least half of the whole number of Members is present, by motion without notice.
- (c) Suspension can only be for the duration of the meeting.

21.3 Any proposal to change this Rule or Rules 11, 17.3 or 28 must be referred to the next Ordinary Meeting of the Council without discussion.

## **22. Mayoral Rulings**

22.1 The ruling of the Mayor as to the construction or application of any of these Rules with regard to any proceedings of the Council given at the meeting shall not be challenged.

## **23. Petitions**

23.1 Any petition relating to a specific development control or licensing application or enforcement decision shall be referred to and considered by the appropriate decision making body for that matter.

23.2 Any petition received regarding staffing issues to be dealt with directly by the Chief Executive as the Head of Paid Service.

23.3 All other petitions which are presented to the Council and which carry more than ten names shall be dealt with in accordance with the Council's Petitions Scheme. All petitions will be received by the Chief Executive who shall ensure that it is immediately referred for consideration by the Executive Member or Executive Cabinet and a report with proposed actions will be sent to the lead petitioner. The receipt of the petition and action taken to be reported to full Council at a later date by the Chief Executive. The only debate permitted at Council in relation to reporting action on a petition is to refer the matter on for reconsideration. If a petition contains more than 1500 signatures it will trigger a full Council debate.

## **24. Application to Committees and Sub-Committees**

24.1 None of these rules apply to meetings of the Executive or the Standards Committee. The following Rules shall apply to meetings of other Committees of the Council and Sub-committees with the substitution of the word "Chair" for "Mayor":

<b>Rule No.</b>	<b>Subject</b>
2.	Presiding at Meetings
3.	Notice of and Summons to Meetings
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24.2 The Chair of any Committee or Sub-committee of the Council may direct that the Rules of debate for Council meetings contained in Rule 12 shall apply to the meeting of the Committee or to any part of it.

## **25. Special meetings of Committees**

25.1 The Chair of any Committee or the Mayor may call a special meeting of the Committee at any time.

25.2 A quarter of the whole number of Members of the Committee may require a special meeting to be arranged by signing a written request for that meeting and delivering it to the Chief Executive.

25.3 The summons to the special meeting shall set out the business to be considered. No business other than that set out in the summons may be considered at the meeting.

## **26. Sub-Committee**

26.1 Every Committee appointed by the Council may appoint Sub-committees for purposes to be specified by the Committee.

26.2 The Chair of a Committee shall be an ex-officio Member of every Sub-committee appointed by that Committee, unless he or she informs the Committee to the contrary.

## **27. Attendance at meetings of Committees and Sub-Committees by Members not Members of the Committee or Sub-Committee**

27.1 A Member of the Council who is not a Member of a Committee or Sub-committee may attend and speak at a meeting of that Committee or Sub-committee when a matter affecting a ward he or she represents is under consideration.

27.2 For the purposes of this Rule, a matter shall not be regarded as affecting a particular Ward if it affects the whole or a substantial part of the Borough in the same way.

## **28. Mover of motion may attend Committee or Sub-Committee**

28.1 If the Council refers a motion to a Committee or Sub-committee of the Council the mover of that motion shall be given notice of the meeting which is to consider it and shall also have the right to attend the meeting and speak in support or explanation of the motion.

## **29. Public questions at Committee meetings**

29.1 The public may ask questions at Overview and Scrutiny Committees and Panels in accordance with arrangements published by the Overview and Scrutiny Committee.

29.2 Members of the public may speak at Development Control Committee in respect of planning applications in accordance with arrangements published by the Committee.

### **30. Substitute Members**

- 30.1 Members may decide to request that another appointed substitute Councillor will attend certain committee meetings on their behalf on the following basis:
- (a) This provision relates only to the Development Control and Licensing and Public Safety Committees
  - (b) Each political group may appoint three substitute members for Development Control Committee and two for Licensing and Public Safety Committee at the start of the Council year when the appointments to committees are made
  - (c) It is the member's responsibility to contact the committees appointed substitute member if they wish them to attend on their behalf.
  - (d) Substitute members have full voting rights.
  - (e) Substitute members must have received sufficient training on planning and licensing matters so that they are equipped to serve on those committees.
  - (f) Substitute members must attend for full meetings and not just for selected agenda items or part meetings.

## Part B – Consideration of Draft Plans and Strategies

1. In this Rule:

“plan or strategy” means any of the following plans and strategies:

- (a) the Corporate Strategy;
- (c) the Crime and Disorder Reduction Strategy;
- (d) the Plans and alterations which together comprise the Development Plan;
- (e) any plan or strategy for the control of the Council’s borrowing or capital expenditure;
- (f) any other plan or strategy (whether statutory or non-statutory) in respect of which the Council determines or statute provides that the decision whether it should be adopted or approved should be taken by it rather than the Executive;

“working day” means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday in England or a day appointed for public thanksgiving or mourning.

2. Where the Executive has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in Rule 3 below.

3. Before the Council:

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopts (with or without modification) the plan or strategy,

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

4. Where the Council gives instructions in accordance with Rule 3 above, it must specify a period of at least five working days beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Executive, within which the Executive Leader may–

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

5. When the period specified by the Council under Rule 4 above has expired, the Council must, when –

- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

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

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

6. Subject to Rule 10 below, where, before 11 March in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year:
  - (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992;
  - (b) estimates of other amounts to be used for the purposes of such a calculation;
  - (c) estimates of such a calculation; or
  - (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and, following consideration of those estimates or amounts, the Council has any objections to them, it must take the action set out in Rule 7 below.

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

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the Executive's reasons for those amendments;
- (c) any disagreement that the Executive has with any of the Council's objections; and
- (d) the Executive's reasons for that disagreement,

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

10. Sub-rules 6 to 9 shall not apply in relation to –

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

## **Part C - Officer Employment Procedure Rules**

### **1. Recruitment and appointment**

#### **(a) Declarations**

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

#### **(b) Seeking support for appointment.**

- i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) No Councillor will seek support for any person for any appointment with the Council.

### **2. Recruitment of Chief Executive, Deputy Chief Executive, Chief Officers and deputy Chief Officers**

Where the Council proposes to appoint a Chief Executive, an Assistant Chief Executive, a Director or any other Chief Officer or Deputy Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - i) the duties of the officer concerned; and
  - ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in (a) to be sent to any person on request.

### **3. Appointment of the Chief Executive**

The appointment of a Chief Executive may be made either by the full Council or by a Committee or Sub-committee on the Council's behalf. If an appointment is made by a Committee or Sub-committee of the Council, the full Council must approve the appointment before any offer of appointment is made to the person concerned. The Committee or Sub-committee must also include at least one member of the Executive.

### **4. Appointment of Chief Officers etc.**

A Committee or Sub-committee of the Council will appoint the all Directors, and any other Chief Officers on the Council's behalf. The Committee or Sub-committee must include at least one member of the Executive.

## 5. Appointment of Chief Executive and other Senior Officers – Further provisions

When an appointment of a Chief Executive or any other officer has been made under Rule 3 or 4 or a Deputy Chief Officer has been appointed an offer of appointment must not be made to the person concerned until:

- (a) the appointing body has notified the Chief Executive of the name of the person to whom the appointing body wishes to make the offer and any other particulars which the appointing body considers are relevant to the appointment;
- (b) the Chief Executive has notified every member of the Executive of:
  - i) the name of the person to whom the appointing body wishes to make the offer;
  - ii) any other particulars relevant to the appointment which the appointing body has notified to the Chief Executive; and
  - iii) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Executive to the Chief Executive; and
- (c) either:
  - i) the Executive Leader has, within the period specified in the notice under Sub-paragraph (b)(iii) above, notified the appointing body that neither he nor any other member of the Executive has any objection to the making of the offer;
  - ii) the Chief Executive has notified the appointing body that no objection was received by him or her within that period from the Executive Leader; or
  - iii) the appointing body is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

If at after the time when an appointment of an officer is made under Rule 3 or 4 there is no Chief Executive or the Chief Executive is absent or unable to act, the functions of the Chief Executive under this Rule shall be discharged by the officer who is for the time being appointed to act as the Head of Paid Service of the Council.

## 6. Other Appointments

### (a) Officers below Directors/Chief Officer level:

The function of the appointment of officers below Director level (other than assistants to political groups) must be discharged on behalf of the Council by the Chief Executive (as Head of Paid Service), or by an officer nominated by him or her.

Councillors may, however, serve as members of a Committee or Sub-committee established by the Council to consider any appeal by the person appointed against any decision relating to the appointment.

### (b) Assistants to political groups.

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

## 7. Interpretation

In these Rules;

“Chief Officer” includes any member of staff who is a deputy chief officer within the meaning of Section 2(8) of the Local Government and Housing Act 1989;

“disciplinary action” in relation to a member of staff of the Council means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Council, be recorded on the member of staff’s personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract; and

“member of staff” means a person appointed to or holding a paid office or employment.

## **8. Disciplinary Action – Chief Officers**

The function of taking disciplinary action in respect of any Director, and any other Chief Officers may be exercised on the Council’s behalf by a Committee or Sub-Committee appointed by the Council for that purpose or by an officer so authorised by the Council. A Committee or Sub-Committee appointed for this purpose must include at least one member of the Executive.

## **9. Disciplinary Action – Further provision in respect of the Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer**

This Rule applies to the dismissal of the Chief Executive (or other officer designated as the Head of the Paid Service), Chief Financial Officer or Monitoring Officer by a Committee, a Sub-Committee or another officer on the Council’s behalf.

In this paragraph—

- (a) “the 2011 Act” means the Localism Act 2011(b);
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001(c);
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972(d) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

A relevant officer may not be dismissed by an authority unless the procedure set out in this paragraph is complied with.

The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel. A “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.



The authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with the following priority order—

- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the authority;
- (c) a relevant independent person who has been appointed by another authority or authorities.

An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.

The authority must appoint any Panel at least 20 working days before the relevant meeting.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

Notice of the dismissal of the officer must not be given by the dismissing body or officer until:

- (a) the body or officer has notified the Chief Executive of the name of the person whom the body or officer wishes to dismiss and any other particulars which the dismissing body or officer considers are relevant to the dismissal;
- (b) the Chief Executive has notified every member of the Executive of:
  - i) the name of the person whom the dismissing body or officer wishes to dismiss;
  - ii) any other particulars relevant to the dismissal which the dismissing body or officer has notified to the Chief Executive; and
  - iii) the period within which any objection to the dismissal is to be made by the Executive Leader on behalf of the Executive to the Chief Executive; and
- (c) either:
  - i) the Executive Leader has, within the period specified in the notice under subparagraph (b)(iii) above, notified the dismissing body or officer that neither he or she nor any other member of the Executive has any objection to the dismissal;
  - ii) the Chief Executive has notified the dismissing body or officer that no objection was received by him within that period from the Executive Leader; or
  - iii) the dismissing body or officer is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

If at the time when a dismissal of an officer to which this Rule applies takes place there is no Chief Executive, the Chief Executive is absent or unable to act or the dismissal is of the Chief Executive, the functions of the Chief Executive under this Rule shall be discharged by any other officer who is for the time being appointed to act as the Head of Paid Service of the Council.

## **10. Disciplinary Action – other officers**

The function of the dismissal of, and taking disciplinary action against, officers below Directors and Heads of Services (other than assistants to political groups) must be discharged on behalf of the Council by the Chief Executive (as Head of Paid Service) or by an officer nominated by him or her.

Councillors may, however, serve as members of a Committee or Sub-committee established by the Council to consider an appeal by a member of staff of the Council against a decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

## **Part D - Contract Procedure Rules**

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## Contract Procedure Rules

### 1. Introduction

- 1.1 These Rules form part of the Council's Constitution and are the Council's Contract Procedure Rules for purchasing goods, works and services for the Council. They do not apply to internal purchases or internal service provision, only where you need to buy something from outside the council.
- 1.2 The Rules apply to any contract that results in a payment being made by the Council as well as to some types of contracts where a service is being provided for the Council which results in some income being generated for the Council.
- 1.3 The Rules also apply to the disposal of surplus goods (see paragraph 37) and to Concession Contracts (paragraph 38).
- 1.4 The Rules also apply when an external body, authority, company, consultant or other person has been engaged to carry out procurement or disposal on behalf of the Council.
- 1.5 Quotations for grant funded contracts for goods, services or works, where they are procured by the Council, should be invited in accordance with these rules, except to the extent that any specific requirements for the receipt of the grant specify different requirements, in which case the specific procedures should be followed, and the procurement completed in accordance with the relevant grant procedural requirements.
- 1.6 The Rules have four main purposes:
- to comply with the obligations that govern the spending of public money derived from the European Union (EU) procurement regime and applied in the UK through the Public Contracts Regulations (2015);
  - to obtain Best Value in the way we spend money, so that we may in turn offer better and more cost effective services to the public;
  - to avoid corruption and ensure high ethical standards;
  - to protect people who follow the Rules.
- 1.7 The Rules must be read in conjunction with the Council's Financial Procedure Rules, Key Partnerships Framework, Procurement Guidance and any other internal controls laid down by the Council for example the Council's Anti-Fraud and Corruption Policy and whistle blowing policy.

### 2 Compliance

- 2.1 Every contract entered into by the Council shall be entered into pursuant to or in connection with the Council's functions and must comply with:
- (a) all relevant statutory provisions;
  - (b) the relevant European procurement rules (i.e. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);
  - (c) the Council's Constitution including these Contract Procedure Rules, the Authority's Financial Regulations and Financial Procedure Rules and the Council's Scheme of Delegation

- (d) the Council's vision, priorities, enabling strategies and policies (e.g. Corporate Strategy, Procurement Strategy and Sustainable Procurement Policy)

- 2.2 At all times during the contract award procedure, the Council, through its Members and officers, shall consider and implement the principles of non-discrimination, equal treatment and transparency.
- 2.3 The highest standards of probity are required of all officers and Members involved in the procurement, award and management of Council contracts. Members shall comply with the Code of Conduct for Councillors, and officers shall comply with the Code of Conduct for Officers.
- 2.4 Effective audit trails must be maintained at all stages throughout the procurement procedure, particularly when approval or agreement is required and at evaluation/decision making stages.

### **3. Conflicts of Interest, Gifts & Hospitality**

- 3.1 Every officer entitled to buy supplies, services or works shall comply with the requirements of the Officer Code of Conduct in respect of conflicts of interest, gifts and hospitality. <http://theloop/LoopDocuments/Code%20of%20Conduct%20Nov%202014.doc>

### **4. Procurement Plan**

- 4.1 Prior to the start of each financial year, each Head of Service must prepare a procurement plan setting out their department's contracts to be procured (over £10,000) during that financial year, and where possible for forthcoming years. A copy of the plan must be supplied to the Principal Procurement Officer who shall use this information to formulate an Annual Procurement Plan for the Council.
- 4.2 Additionally any procurement planned which is over £100,000 in value should be communicated to Democratic Services for inclusion in the Notice of key Decisions.

### **5. Who has authority to carry out procurement on behalf of the Council?**

- 5.1 Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Constitution. Officers with delegated authority may only delegate to other officers who have the appropriate skills and knowledge appropriate to the task. Officers shall be informed by his/her Director/Service Head, in writing, of the extent of any delegated authority and any applicable financial thresholds for each procurement. These officers shall be known as Authorised Officers.

### **5.2 Revenue Expenditure**

Subject to the provisions of paragraph 5.4, Directors and their Authorised Officers may seek Tenders and Quotations in accordance with these Contracts Procedure Rules for any item of revenue expenditure for which budget provision has been made, and may accept such Tenders/ Quotations in accordance with these Contracts Procedure Rules, up to a total contract value of £75,000.

### 5.3 Capital Expenditure.

Subject to the provisions of paragraph 5.4, Directors and their Authorised Officers may seek Tenders and Quotations in accordance with these Contracts Procedure Rules, the particulars of which are shown as approved in the Council's capital programme for the current financial year and which have also been approved/comply with any additional requirements of the Council's Financial Regulations. Directors and their Authorised Officers may accept Tenders / Quotations in accordance with these Contracts Procedure Rules and the Council's Financial Regulations up to a total contract value of £75,000.

- 5.4 For all High Value Procurements above the EU threshold, prior approval of the proposed contract award procedure including the evaluation criteria and weightings to be applied, shall be sought from the relevant Executive Cabinet Portfolio Member as a delegated decision.
- 5.5 Any contract awards above £75,000 or those which involve any potential transfer of the Council's employees to a Supplier shall be referred to the Executive Cabinet or relevant Executive Cabinet Portfolio Member for a decision, unless Cabinet have previously delegated that decision to the Director of the spending directorate.
- 5.6 Any contract awards which constitute a Key Decision (i.e. a contract of £100,000 or more) must be published in the Notice of Key Decisions prior to any decision being taken as described in the Council's Constitution.

## 6. Exempt Contracts

6.1 The Rules do not apply to the following types of Contract:

- (a) individual contracts for the provision of temporary staff (The arrangements with staffing agencies, however, should be subject to a competitive procurement process in accordance with these Contracts Procedure Rules);
- (b) contracts of employment which make an individual a direct employee of the council
- (c) contracts relating solely to disposal or acquisition of an interest in land (including buildings)

If you are in any doubt about whether the Rules apply, you **must** always check with the Principal Procurement Officer.

## 7. Pre-Procurement Procedure

- 7.1 Before commencing a procurement, it is essential that the Authorised Officer leading the procurement has identified the business need and fully assessed any options for meeting those needs. Consideration shall be given to the Council's Procurement Strategy, Sustainable Procurement Policy and procurement guidance, as appropriate.
- 7.2 Before undertaking a procurement the Authorised Officer shall:
- (a) consider all other means of satisfying the need (including recycling and reuse where appropriate);
  - (b) prepare an estimate of expenditure in accordance with Rule 8;
  - (c) satisfy themselves that they have the necessary authority to deal with the

procurement and that there is budget provision for the procurement in accordance with the provisions of Rule 5;

- (d) undertake a risk assessment;
- (e) complete an Integrated Impact Assessment where any change in service provision is proposed;
- (f) establish a business case for the procurement and consider whether the procurement should follow the Council's Project Management Framework/ Toolkit. Procurements which may benefit from use of the toolkit are usually higher value and are:
  - unique, new or complex leading to significant system, process or service changes,
  - impact on numerous services
  - have a significant reputational impact on the Council.

If you are unsure as to whether the Project Management Framework should apply, you should consult the Policy and Performance Advisor for a decision.

The level of resource and detail deployed in carrying out the requirements of 7.1 and 7.2 shall be appropriate to the nature and the value of the Procurement.

## 8. Calculating the Contract Value

- 8.1 Prior to commencing any procurement you must estimate the total monetary value of the contract (exclusive of VAT) over its full duration, including any extension options (not the annual value). The estimated total value of the contract will determine which procedure you must then adopt.
- 8.2 Where the duration of a contract is for an indefinite period, or where its term cannot be defined, the contract value should be taken to be the estimated value of the contract over a period of four years. This rule shall not apply to contracts with an indefinite period where the annual value is below £10,000. Such contracts shall be subject to an annual review by the Authorised Officer.
- 8.3 Circumstances may arise where a number of low value contracts of the same type for regular, routine, similar goods or services are given to one Contractor within a 12 month period. In this case, 12 months expenditure should be aggregated to determine which procedure should be followed. When the value of those contracts is aggregated the effect may be to move the total purchase from one value band to another. This may mean that a different procurement method has to be followed to comply with these rules, or it may be necessary to seek a waiver of these rules in such circumstances.
  - 8.3.1 The requirement to aggregate under the circumstances described at 8.3 will not apply where The Authorised Officer identifies that the spend activity is:
    - (a) unknown or unplanned and therefore cannot be specified at the commencement of the 12 months period or
    - (b) of a similar general category but is so varied that it would be impractical or difficult to specify, the aggregate annual value is less than £20,000, and a blanket discount arrangement, schedule of rates or other such general framework agreement would be impractical and lead to additional cost.
  - 8.3.2 In any event, the Authorised Officer shall ensure that best value is achieved, make best use of the Council's purchasing power by aggregating where appropriate, undertake periodic

review of the procurement decision, and keep appropriate records including the reason for any decision not to aggregate, throughout.

- 8.4 Authorised Officers should make the best use of the Council's purchasing power by aggregating purchases wherever possible.
- 8.5 Contracts must comply with the Public Procurement Regulations and must not be artificially split to avoid these Rules or the Regulations.
- 8.6 If, following calculation of the estimated value, the low value route (below) £10,000 is used, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £10,000, the matter shall be submitted for approval via the electronic request for waiver form located on the loop which will seek approval from the relevant Director, Head of Governance and Chief Executive. Provided that the preferred offer is within 10% of the pre-quoted estimate, and the aforementioned are of the opinion that a robust exercise with an appropriate level of competition has been carried out, with a genuine pre-tender estimate, they may collectively approve the contract award.
- 8.7 If, following calculation of the estimated value, the intermediate route (below £75,000) is selected, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £75,000, then the matter shall be submitted for approval via the electronic request for waiver form located on the loop which will seek approval from the relevant Director, Head of Governance and Chief Executive. Full details including how the estimated value was calculated, the amount of the estimated value, the value of all quotations received and the evaluation model applied leading to selection of the preferred offer must be included on the request. Provided that the preferred offer is within 10% of the pre-tender estimate and the aforementioned are of the opinion that a robust exercise has been carried out with a genuine pre-tender estimate, they may collectively recommend that the process be continued under the High Value route and that full details of the process followed be included in the subsequent report requesting approval for the award decision to be submitted to Cabinet or Executive Cabinet portfolio member.

## **9. Low Value Procurement: Below £10,000**

- 9.1 Where the estimated value or amount of the proposed contract is less than £10,000, The Authorised Officer shall ensure that best value is achieved and that the arrangements made secure the best available terms for the Council. Good practice would be to obtain written or electronic quotations (including at least one local supplier); however, evidenced verbal quotations are acceptable. The Authorised Officer should ensure that the number and type of quotations received are appropriate and proportionate to the contract risk and value.
- 9.2 The purchase order must be made on an official purchase order and shall specify the services, supplies or works to be provided and set out the price and terms of payments.
- 9.3 Two Authorised Officers must be involved in the ordering and receiving process.
- 9.4 Every purchase order (whether issued as a result of higher, intermediate or lower value procurements) must contain the current approved standard form of terms and conditions of contract between the Council and the supplier. A quotation and a purchase order will create a legally binding contract.

## **10. Intermediate Value Procurement: £10,000 to £75,000 (Quotations)**

- 10.1 For procurements valued over £10,000 but at or below £75,000 at least 3 Request for Quotations shall be invited through the Council's e-procurement portal "The Chest", before

a formal purchase order is issued specifying the supplies, services or works to be provided.

- 10.2 Where an Intermediate Value procurement is above £25,000 in value, and is openly advertised, the 2015 Public Procurement Regulations require that the opportunity is also advertised on the Government one stop shop “Contracts Finder”. Additionally, for all contract awards above £25,000, whether the opportunity was openly advertised or not, a Contract Award Notice must be published on Contracts Finder. In both instances, the notices must include the specific details listed in the Regulations, and in both instances, these notices may be accommodated through the Chest.
- 10.3 At least one local supplier should be included in the suppliers to be invited to quote where possible.
- 10.4. Invitations to quote shall:
- (a) specify or refer to a specification of the goods, materials, services or work required and;
  - (b) state the date and time by which quotation must be received and;
  - (c) include the instructions for submission and state that no quotation will be considered unless it is received in accordance with those instructions;
  - (d) have the evaluation criteria set out in the invitation to Quote. All quotations shall be evaluated in accordance with the evaluation criteria set out in the quotation documents. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Economically Advantageous offer to the Council.
- 10.5 Where the risk in a specific procurement is perceived to be high, then that procurement shall be treated as a High Value Procurement.
- 10.6 Any procurement that may involve a transfer of Council staff shall be treated as a High Value Procurement.

## **11. High Value Procurements: Above £75,000 (Tenders)**

- 11.1 All Procurements with a cumulative value of over £75,000 shall be classed as High Value Procurements.
- 11.2 Additionally any contract where Council employees may be transferred to other bodies, or where risk in the procurement is perceived to be high shall be treated as a High Value Procurement.
- 11.3 All high value procurements must be advertised on the Council’s e-procurement portal “The Chest”
- 11.4 In addition to advertising on the Chest, all High Value procurements shall be advertised on the Government one stop shop “Contracts Finder” in accordance with the 2015 Public Procurement Regulations. Additionally, for these procurements, a Contract Award Notice must also be published on Contracts Finder. In both instances, the notices must include the specific details listed in the Regulations, and in both instances, these notices can be accommodated through the Chest.



- 11.5 Nothing in these Rules prevents you from adopting any aspect of the High Value Procurement procedures in the procurement of intermediate or lower value supplies, works or services.

## 12. Contracts Subject to the Regulations: Above the EU Threshold

- 12.1 Where the estimated value of a contract exceeds the current EU threshold then the contract shall be tendered in accordance with the Regulations. Under the Regulations, the contract may be tendered under the Open, Restricted, or, in exceptional circumstances exhaustively set out in the Regulations, the Competitive Procedure with Negotiation, Competitive Dialogue or Innovation Partnership Procedure. For each contract tendered in accordance with the Regulations, a contract notice shall be published in the prescribed form in the Supplement to the Official Journal to the European Union (OJEU) to invite tenders or expressions of interest.

Advertisements published in addition to the OJEU notice must not appear in any form before a contract notice is published by the EU Publications Office and must not contain any information additional to that contained in the contract notice.

- 12.2 With effect from 1 January 2016 the main current EU thresholds are as follows:

- (a) Services contracts £164,176;
- (b) Schedule 3 (Social & Other Specific Services Contracts) £589,148
- (b) Supplies contracts £164,176; and
- (c) Works contracts £4,104,394.

The EU thresholds set out above are revised by the OJEU every two years.

- 12.3 The EU Directives and UK Regulations are long and complex, and set out minimum timescales for receipt of expressions of interest and tenders. Officers **must** consult the Shared Procurement Team and Legal Services department prior to commencing any procurement which is subject to the Regulations.

## 13. Suitability Assessment & Pre-qualification *(Not to be used when procuring from a framework agreement as suppliers on framework agreements are already pre-qualified)*

- 13.1 The Council shall only enter into a contract with a Supplier if it is satisfied as to the Suppliers:

- (a) eligibility;
- (b) economic and financial standing.
- (c) technical and /or professional ability.

The level and detail of assessment shall be proportionate to the risk and value of the contract. Shared Financial Services shall be consulted for all procurements above £100,000 for the completion of an appropriate financial assessment, prior to contract award.

- 13.2 A pre-qualification stage is not permitted in any procurement below the EU threshold for Goods and Services. (currently £164,176 for calendar years 2016/17). -This threshold is updated every two years.) However, suitability assessment questions relating to a potential provider may be asked provided that the questions are relevant and proportionate to the subject matter of the procurement.

- 13.3 A pre-qualification stage may be used in above EU threshold contracts. However, in all instances, statutory guidance published by Crown Commercial Service must be followed. This includes use of a core set of standardised questions. For further information and advice, Authorised Officers should contact the Shared Procurement Team.
- 13.4 Where appropriate, bidders may self-certify during the tender/ quotation process, with relevant and proportionate checks only being carried out on the shortlisted bidder.
- 13.5 Any procurement subject to the Regulations shall be in full compliance with those Regulations and the statutory Crown Commercial Guidance. The Regulations stipulate what must and /or may be taken account of, in assessing eligibility, economic and financial standing and technical and /or professional ability.

## **14 The Invitation to Tender**

- 14.1 The ITT shall include details of the Authority's requirements for the particular contract including:
- (a) a description of the services, supplies or works being procured;
  - (b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
  - (c) instructions for completing and returning the tender documentation;
  - (d) notification that tenders received after the closing date and time will not be considered;
  - (e) a specification and instructions on whether any variants are permissible;
  - (f) the Council's terms and conditions of contract;
  - (g) the evaluation criteria including any weightings as considered appropriate;
  - (h) pricing mechanism and instructions for completion;
  - (i) whether the Council is of the view that TUPE may apply;
  - (j) form and content of method statements to be provided;
  - (k) rules for tender submission;
  - (l) any further information which will inform or assist tenderers in preparing tenders.

## **15. Submission, Receiving and Opening of E- Tenders/Quotations through the Chest**

- 15.1 Every response to an invitation to tender/quote for a transaction valued over £10,000 must be submitted through the Chest by no later than the time and date specified for submission of tenders/quotations in the invitation to tender/quotation document.
- 15.2 The Principal Procurement Officer or Authorised deputy shall verify (remove the e-seal) and release all tenders and quotes to the Authorised Officer once the deadline for their receipt has passed. This verification role may be given to a suitably trained Authorised Officer for intermediate value quotes.
- 15.3 The Chest will automatically record the date and time of receipt of each submission and will list late submissions separately. No quotations or tenders which have been received on to the Chest after the deadline for receipt has passed may be considered.
- 15.4 The Principal Procurement Officer or other Authorised Officer shall complete a Record of Tenders/Quotations Received form summarising the quotations received
- 15.5 The Authorised Officer must notify the Principal Procurement Officer of the eventual outcome of the procurement exercise for entry into the Contracts Register by completing and submitting the final sections of the Record of Tenders/Quotations Received Form

- 15.6 The closing date for the receipt of tenders/quotations may be extended in writing, in appropriate circumstances, at the discretion of the Head of Governance.
- 15.7 Tenders and Quotations shall not be opened until the deadline has passed for their receipt.

## **16. Traditional Hard Copy Tenders and Quotes (Exceptional Circumstances Only)**

- 16.1 The Council's preferred method of tendering is by electronic means through the Chest. However, in very exceptional circumstances (e.g. contracts where there are items required, which cannot be submitted electronically), tenders and quotes may be submitted in hard copy format with the prior approval of the Head of Governance and the Principal Procurement Officer.
- 16.2 Tenders and Quotations received in accordance with Paragraph 16.1 shall be addressed to the Principal Procurement Officer, Shared Financial Services, Town Hall Market Street, Chorley, PR7 1DP in a sealed envelope endorsed with the word "Tender" or "Quotation" as appropriate, followed by the subject matter to which it relates. No marks shall be included upon the envelope that identifies the bidder prior to the opening of the envelope. The Principal Procurement Officer shall record the date and time of receipt of such Tenders and Quotations and shall keep them in a secure place where they shall remain unopened until the time and date specified for their opening.
- 16.3 Tenders and Quotations received in accordance with this paragraph 16 shall be opened by the Principal Procurement Officer or authorised Deputy and at least one other Authorised Officer. An immediate record shall be made of the Tenders/Quotations received including tenderer name, value, and the date and time of opening on the Record of Tenders/Quotes Received Form.

## **17. Evaluation**

- 17.1 Tenders subject to the EU Regulations shall be evaluated in accordance with the relevant regulations and the evaluation criteria set out in the OJEU notice and invitation to tender. All other tenders and quotations shall be evaluated in accordance with the evaluation criteria notified to tenderers in the contract notice and/or invitation to tender or quote.
- 17.2 All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Economically Advantageous Tender to the Council (MEAT).
- 17.3 MEAT evaluation involves scoring tenders objectively by a panel of officers and/or independent experts using criteria which should:
- be pre-determined and listed in the invitation to tender/ quotation documentation in descending order of importance;
  - be weighted according to their respective importance (mandatory for High Value Tenders/ optional for intermediate and low value procurement);
  - be strictly observed at all times throughout the tender process;
  - reflect the principles of Best Value;
  - include price;

- adopt whole-life costing where appropriate, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal should be taken into account. Additionally the use of energy efficient products or the use of sustainable materials with a longer life span may impact on the whole life cost;
- be capable of objective assessment;
- include, where applicable, the quality of the tenderers' proposals to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
- avoid discrimination or perceived discrimination on the basis of nationality, or other cause contrary to any of the Council's policies.

Where this evaluation methodology is used, any resulting contract must be awarded to the tenderer which submits the most economically advantageous tender, i.e. the tender that achieves the highest score in the objective assessment.

- 17.4 The evaluation criteria must be strictly observed at all times through the contract award procedure by any officer involved in the tender evaluation process. The Authorised Officer must keep comprehensive records of the evaluation exercise including the scores and comments and justification for those scores and shall sign the final selection record.
- 17.5 For each contract above £75,000, the Authorised Officer shall form an Evaluation Team with responsibility for evaluating tenders. The Authorised Officer shall keep comprehensive written records of the evaluation exercise including the scores and comments and justification for those scores, and the lead officers of the evaluation team shall sign the final selection record.

## **18. Tender/Quotation Clarification**

- 18.1 Bidders may request clarification on aspects of the Tender/Quotation documentation prior to submission by submitting a clarification question through the Chest. The Authorised Officer must ensure equal treatment of all bidders, and where relevant should anonymise the question and publish that together with the response to all potential bidders through the Chest. Care should be taken not to reveal the identity of the Tenderer or any information which may be deemed to be commercially confidential to them during the clarification process.
- 18.2 During the evaluation process, Authorised Officers may clarify aspects of a submitted Tender or a Quotation which are unclear, lacking in detail, ambiguous or appear to show a misunderstanding of the requirements. The areas requiring clarification should be set out in writing by the procurer and a written response requested from the bidder. All such communications should be issued or recorded through the Chest to ensure a full e-audit trail of the procurement.
- 18.3 For more complex, service procurements where officers want to obtain a fuller understanding of bidders proposals and method statements it may be appropriate to hold a clarification meeting. In such circumstances a formal written record of the meeting shall be completed and agreed by all parties. Minor points of clarification and obvious errors (e.g. mathematical error) should be dealt with in accordance with Clause 18.2 above and should not require a meeting.

When conducting clarification, as throughout the procurement process, the Procuring Officer must bear in mind the rules and principles of the EU Regulations i.e. transparency,

equal treatment and non-discrimination.

## **19. Errors in Tenders/Quotations**

- 19.1 Errors in Tenders/Quotations must be dealt with by asking the Tenderer to confirm the Tender as submitted or withdraw their bid. However, where a Tenderer has made a visible and genuine arithmetical error they may be given an opportunity to correct that error. Other than where specifically provided for in the Regulations (e.g when using the Competitive Dialogue procedure) no other adjustment, revision or qualification is permitted.
- 19.2 Tenders/Quotations must state how errors in Tenders/Quotations must be dealt with.
- 19.3 Careful consideration must be given to the effect of any procedure adopted when dealing with errors in Tenders and the reflection which any such procedure may have on the integrity on the Officers and Members of the Council. It is essential that whatever procedure is adopted is transparent and fair and equitable to all Tenderers.

## **20. Post Tender Negotiation**

- 20.1 Where a procurement is conducted pursuant to the Regulations through either the Open or Restricted procedures no post tender negotiations are permitted. However, the Council may seek clarification from Suppliers where appropriate.
- 20.2 At all times during the procurement (whether subject to the Regulations or not), the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

## **21. Bonds, Guarantees and Insurance**

- 21.1 For high value procurements, the Authorised officer shall consider and include in the procurement documentation whether a performance bond and/or a parent company guarantee (if applicable) shall be required from the preferred Supplier.
- 21.2 The Authorised Officer shall consider the appropriate type (employee liability, public liability, professional indemnity, etc.) and level of insurance requirements for each contract.

## **22. Awarding Contracts**

- 22.1 The Council shall only award a contract where at the time of contract award this represents the Most Economically Advantageous offer or is the lowest price depending on contract award criterion included in the OJEU notice or Invitation to Tender/Quote.
- 22.2 A contract must only be awarded and signed by a person authorised to do so, who must ensure that the appropriate budget holder has the funds in place to sustain the contract prior to award.
- 22.3 Directors/ Heads of Service should ensure that proper records of all procurement activity are retained in electronic or hard copy format as appropriate.
- 22.4 For all transactions valued at £75,000 and above the decision to award a contract shall be made by the Executive Cabinet or relevant Executive Cabinet Portfolio Member unless Cabinet have previously delegated that decision to the Director of the spending directorate.

22.5 Any procurement over £100,000 in value constitutes a Key Decision and must therefore be included in the relevant Notice of Key Decision as described in the Council's Constitution, before the contract award decision is taken.

22.6 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. It is essential to maintain effective audit trails at all stages throughout the procurement procedure particularly where approval or agreement is required.

### **23. Standstill Period**

23.1 For all contracts tendered under the Regulations, a ten calendar day (where electronic communication is used or 15 calendar days where non-electronic communication is used) 'standstill period' must be observed between the decision to award and contract conclusion. Although the Standstill period is counted in calendar days, it must end on a working day. Authorised Officers should consult the Shared Procurement team for advice of the specific detail which must be included in Standstill Letters under the Regulations. The Standstill Period is an express requirement in the Regulations and must be followed.

### **24. Contract Award Notice**

24.1 All contracts awarded under the Regulations must be announced by means of a Contract Award Notice in OJEU transmitted no later than 30 calendar days after the date of the award.

24.2 All contracts awarded above £25,000 in value whether openly advertised or not must be published on Contracts Finder in accordance with the Regulations and published Crown Commercial Service (CCS) guidance.

### **25. Letters of Intent**

25.1 Letters of intent shall only be used in exceptional circumstances and, by prior written agreement with the Head of Governance, as follows:

- (a) Where a Supplier is required to provide services, supplies or works prior to formal written acceptance by the Council; or
- (b) Where the Council's form of tender does not include a statement that until such time as a formal contract is executed, the Council's written acceptance of a tender shall bind the parties into a contractual relationship.

### **26. Contract Terms and Conditions**

26.1 Contracts shall be entered into on the Council's terms and conditions, or an appropriate industry standard form of contract or other form of contract approved by Legal Services. This may be a supplier's contract suitably amended to protect the Council's interests. However where the contract has been tendered the contract shall be in accordance with the tendered Conditions. The Contract Conditions shall be included with each purchase order and invitation to tender or negotiate.

26.2 Where contracts are subject to the Regulations, the rules relating to technical specifications shall be followed and any reference to a technical standard, make or type shall be prefaced with the words "or equivalent".

## **27. Execution of Contracts**

- 27.1 Any contracts valued at above £75,000 shall be passed to Legal Services for sealing execution and secure storage, unless otherwise agreed with the Head of Governance. All other contracts may be signed by an officer with appropriate delegated authority.
- 27.2 All other contracts may be signed by an officer with the appropriate authority
- 27.3 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Head of Governance.

## **28. Records of Tenders and Contracts/ Contracts Register**

- 28.1 Each Director/Head of Service shall maintain his/her own register of all contracts entered into by his/her department.
- 28.2 The Principal Procurement Officer shall maintain a register of all Higher Value and Intermediate value contracts entered into by the Council.
- 28.3 Authorised Officers shall notify the Principal Procurement Officer of all intermediate and high value contract awards using the appropriate forms, for entry into the Contracts/Transparency Register by completing and submitting the final sections of the Record of Tenders and Quotations Received Form.
- 28.4 Additionally the Authorised Officer must notify the Principal Procurement Officer of all contracts awarded, above £5000, as soon as possible after the Contract Award, for inclusion in the Contract/Transparency Register.

## **29. Approved / Standing List of Contractors**

- 29.1 The Council may maintain Approved Standing lists of Suppliers that meet its suitability requirements. Quotations and tenders for contracts that are not subject to the Regulations may be invited from Suppliers included on an approved list. Where the Authority intends to use an approved list for services, supplies or works contracts, the Approved List should be reviewed and advertised on a regular basis.
- 29.2 Each Approved Standing List shall:
- (a) be compiled and maintained by the relevant Authorised Officer;
  - (b) contain the names of all persons who wish to be included in it and who after appropriate enquiries have been made by the Authorised Officer concerned, are approved by the Council or Cabinet as provided for in the scheme of delegation; and
  - (c) indicate whether a person whose name is included in it is approved for contracts for all, or only some, of the specified values or amounts or categories.
- 29.3 At least four weeks before each Standing List is first compiled, a notice inviting applications for inclusion in it shall be published on the Chest and where relevant, Contracts Finder.
- 29.4 Each Standing List shall be amended as required from time to time to include new applications for inclusion and to delete any person no longer thought fit to be included.

Each Standing List shall be formally reviewed in the manner set out below by the appropriate Director/ Head of Service at intervals not exceeding three years. At least four weeks before each review, each person whose name appears in the Standing List shall be asked whether s/he wishes his/her name to remain there. Notices inviting applications for inclusion in the list shall be published in the manner provided by Contract Procedure Rule 29.3 above.

- 29.5 Where an invitation to tender for a contract is limited to those named on the Standing List maintained under this Contract Procedure Rule, an invitation to tender for that contract shall be sent to at least four of the persons on the list. These people will be approved for a contract for that value or amount or of that category, or, if there are fewer than four such persons, to all such persons. If there are more than four people, the Authorised Officer, will select the people who will receive invitations, and the manner in which they are sent. This will be either generally or in relation to a particular contract or to a category of contracts provided that the manner of selection shall include a system of rotation from persons appearing on the Standing List.

### **30. Nominated and Named Sub-contractors**

If a sub-contractor, supplier or sub-consultant is to be nominated or named to a main contractor, quotations or tenders must be invited in accordance with these Contracts Procedure Rules and the terms of the invitation shall be compatible with the main contract.

### **31. Framework Agreements**

- 31.1 Framework agreements are agreements with suppliers for the provision of supplies, works or services on agreed terms for a specific period. Unlike normal contracts which require certainty (on price, quantity and other details), Framework Agreements usually state only non-binding estimated quantities against which orders are placed as and when required during the contract period (sometimes this procedure is known as “call-off”). As soon as the quantity/price etc are fixed and an order placed, a contract is formed. Frameworks offer benefits of bulk-buying, improved service and reduced administration costs over the period of the arrangement.
- 31.2 A framework agreement may have the option or requirement for you to hold a “further - competition” with all of the suppliers included on the framework who are capable of meeting your requirement. Quotations invited under a further competition shall be received and opened in accordance with these Contract Procedure Rules, unless received and opened by the public sector framework provider (e.g. Yorkshire Purchasing Organisation) on the Council’s behalf, who may receive and open such bids in accordance with their contract procedural rules.
- 31.3 All Framework agreements procured by the Council must be tendered in accordance with these Contract Procedure Rules.
- 31.4 Where the Council has entered into a Framework Agreement through procurement or is able to place orders from existing Framework Agreements procured by central government agencies, public sector consortia, other local authorities or other third parties, then the Council may benefit from using those contracts without entering into a full, separate procurement.
- 31.5 Where a public sector framework is used in accordance with the above provisions, without entering into a full, separate procurement process, all other relevant aspects of these procurement rules will still apply, including any approval which may be required for the procurement award procedure (in this case to use the identified framework), approval for



the evaluation criteria and weightings (in the event of a further competition under the framework), and approval for the contact award prior to contract acceptance.

- 31.6 Authorised Officers shall investigate whether call-off contracts or frameworks are relevant to their procurement activity as better value for the Council may be obtained by using an existing Council or other framework.
- 31.7 Legal/Procurement Advice should be sought in advance before awarding a contract to a supplier using a framework agreement not procured directly by the Council.
- 31.8 Any appropriate Council Framework Agreements in place shall be used regardless of value, provided the standing order requirements in relation to delegated authority are met. An effective audit trail shall be maintained.

## **32. Joint / Collaborative Procurement**

- 32.1 Authority to engage in joint/ collaborative procurement activity shall be in accordance with the requirements of paragraph 5. However, in the event that the joint/ collaborative procurement activity requires a commitment at the outset, prior to bids being invited, Cabinet approval must be obtained prior to committing to the joint/ collaborative procurement where the estimated value of the Council's proportion of the procurement exceeds £75,000.
- 32.2 The Authorised Officer shall ensure that the joint/collaborative procurement activity complies fully with the EU Procurement Regulations
- 32.3 In any joint or collaborative procurement process the parties involved in the procurement should appoint a "lead body" to carry out the procurement. The procurement should then be conducted in accordance with the lead body's Rules. If this approach requires any waivers of the lead body's Rules, it shall be that body's responsibility to seek approval for, and obtain, such waiver(s).

## **33. Procurement by Consultants**

Any consultants used by the Council shall be appointed in accordance with these Contracts Procedure Rules. Where the Council uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultants carry out any procurement in accordance with these Contracts Procedure Rules. No consultant shall make any decision on whether to award a contract or who a contract should be awarded to. The Authorised Officer shall ensure that the consultant's performance is monitored.

## **34. Contract Extension/ Variation**

- 34.1 Any contract which has been procured in accordance with these rules may be extended in accordance with its terms (subject to financial resources) by the Director/ Head of Service or delegated officer provided an extension was included for within the contract terms and conditions.
- 34.2 Other existing Contracts which have been procured in accordance with these Rules may be extended by the Director/ Head of Service or Authorised Officer, provided that the total period of this and any previous extension will not together exceed 1 years. A formal Waiver of the Rules must be obtained if the proposed extension will add more than £10,000, or more than 20% (whichever is the higher) to the original total Contract value. The Authorised Officer must keep documented reasoning for the extension.

- 34.3 Any extension exceeding £75,000 in value shall require the approval of the Executive Cabinet or relevant Executive Cabinet Portfolio Member.
- 34.4 If the original contract was subject to the EU procurement regulations, the contract can only be extended within the parameters identified in the original EU contract notice. If the contract was not subject to the EU procurement regulations, any extension must not take the total value of the contract above the relevant EU thresholds.
- 34.5 If the contract was awarded as a framework agreement, the total framework period, including any extensions, cannot exceed four years, except in exceptional circumstances relating to the subject of the framework agreement. For example, a longer duration could be justified in order to ensure effective competition if four years would not be sufficient to provide return on investment.
- 34.6 When negotiating a contract extension the authorised officer must make every effort to negotiate improved contract terms with regard to the cost and quality and shall always be satisfied that the extension will achieve Best Value for Money and is reasonable in all the relevant circumstances.
- 34.7 All extensions to any Council contracts must be in writing and reported to the Principal Procurement Officer in order that the Contracts Register can be updated accordingly.
- 34.8 Once a Contract has expired it cannot then be extended.

## **35 Variations**

- 35.1 Variations to Contract shall be dealt with in accordance with these Contracts Procedure Rules and the Council's Financial Regulations .
- 35.2 All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially effect or change the scope of the original Contract are not allowed.
- 35.3 All Contract variations must be in writing and signed by both the Council and the Contractor except where different provisions are made within the Contract documentation. The value of each variation must be assessed by the Authorised Officer and all necessary approvals sought prior to the variation taking place including registrations on the Council's Notice of key Decisions if applicable.
- 35.4 Contracts procured under the EU Regulations **must not** be extended or varied without first consulting Legal Services and the Principal Procurement Officer.
- 35.5 The Authorised Officer shall always be satisfied that the variation will achieve Best Value for Money and is reasonable in all the relevant circumstances.

## **36. Termination of Contract**

- 36.1 For any contract exceeding £75,000 in value, termination shall be approved by the Executive Cabinet or Executive Cabinet Portfolio Member. In emergency situations, the relevant Director may authorise termination of Higher Value Contracts. In this case, full details including the reason for the contract termination shall be reported back to Council at a later date.
- 36.2 Contracts of a lesser value than £75,000 may be terminated early by agreement prior to the

expiry date or in accordance with the termination provisions set out in the contract. Legal advice should be sought as appropriate.

### **37. Disposing of surplus goods**

37.1 Heads of Service are responsible for the disposal of their own surplus goods and shall make adequate and safe arrangements to do so.

37.2 An appropriate competitive process shall be applied to the disposal of surplus goods unless it has been agreed by the Head of Service that the goods in question are to be disposed of to a charitable/not-for-profit organisation or disposal arrangements have been agreed within the original contract for purchase.

### **38 Concession Contracts**

The rules apply to Concession Contracts (please refer to the Definitions at the back of this document). A simple example would be a concession to pitch an ice cream van and sell ice cream on council land.

### **39 Waivers of Contract Procedure Rules**

39.1 Waivers of any of these contract Procedure Rules shall only be given in exceptional circumstances and in all cases must be justified because:

- the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Rules is justifiable; or
- the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
- there are other circumstances which are genuinely exceptional and not of the Council's own making.

39.2 Authorised Officers shall submit waiver requests which meet the requirements of this paragraph 39 via the electronic waiver request procedure located on the Loop. On submission of the request, approval will be automatically sought from the relevant Director, the Head of Governance and the Chief Executive, all of whom must approve the request for it to be fully approved.

39.3 Waivers may not be made retrospectively.

### **40. Non- Compliance**

If it comes to the notice of an Authorised Officer that there has been non-compliance with these Contract Procedure Rules in respect of any contract for which s/he is responsible as the Authorised Officer of the procuring department, s/he shall without delay notify the Monitoring Officer (Head of Governance & Property Services) who shall take such action as s/he deems necessary.

### **41. Review and Amendment of Contract Procedure Rules**

The Monitoring Officer is responsible for keeping the Rules under review (with a formal review and if necessary revision every three years) and monitoring compliance.

## DEFINITIONS

### **“Annual Procurement Plan”**

A plan identifying major projects so that appropriate resources can be identified. It also provides a basis for PINs and other information provided to suppliers to give advance notice of bidding opportunities;

### **“Authorised Officer”**

An Authorised Officer of the Council with appropriate delegated authority to act on the Council’s behalf in accordance with the Constitution

### **Best Value for Money”**

The optimum combination of whole life costs and benefits to meet the customer’s requirement. Such term equates to the EU procurement requirement “most economically advantageous offer”;

### **“Council”**

“Council” means Chorley Borough Council

### **“Concession Contract”**

A concession contract is used where the Council wishes to engage a party to provide a service, consideration for which is in the form of the party (“the concessionaire”) being given a right to charge the public for the services being provided. A simple example would be a concession to pitch an ice cream van and sell ice cream on council land, If unsure as to whether a proposed contract would come within the scope of this definition please consult with the Head of Governance.

### **“Contract Award Procedure”**

One of four procedures as set out in Contract Procedure Rules 13 (Open Procedure), 14 (Restricted Procedure), 15 (Negotiated Procedure or 16 (Competitive Dialogue Procedure)

### **“Contracts Finder”**

Contracts Finder is the Government’s one stop shop for suppliers to find new procurement opportunities totally free of charge, specifically referred to in the 2015 Public Procurement Regulations

### **“Contracts Register”**

A register held and maintained by the Principal Procurement Officer containing details of contracts entered into by the Authority

### **“Framework Agreement”**

An agreement which allows the Council to call off from a supplier to provide supplies, services or works in accordance with the terms of the agreement. The Framework Agreement itself usually constitutes a non binding offer with no obligations on the Authority to call off from the Supplier. If the Council calls off from the Supplier a binding contract comes into being. A Framework Agreement can be a binding agreement where it is executed as a deed

### **“Grant Funded Contract”**

A contract which is procured by the council and is funded or part funded by grant money

### **“Head of Governance”**

Head of Governance or authorised deputy

### **“ITT”**

Invitation to tender;

**“Key Decision”**

Any executive decision (as opposed to a regulatory decision) which is likely to result in the Council incurring significant expenditure or the making of savings where there is:

- A change in service provision that impacts upon the service revenue budget by £100,000 or more, or
- A contract worth £100,000 or more, or
- A new or unprogrammed capital scheme of £100,000 or more, or

Any executive decision which will have a significant impact in environmental, physical, social or economic terms on communities living or working in two or more electoral wards. This includes any plans or strategies which are not within the meaning of the Council’s Policy Framework set out in Article 4 of the Council’s Constitution.

**“Local Supplier”**

Any supplier within the Chorley Borough or any neighbouring borough

**“Most Economically Advantageous Offer”**

From the Council’s perspective the most economically advantageous offer from a Supplier assessed by reference to relevant evaluation criteria linked to the subject matter of the contract in question for example, quality, price, technical merit, aesthetic and functional characteristics, running costs, cost effectiveness, after sales service and technical assistance, delivery date and delivery period or period of completion;

**“OJEU”**

Official Journal of the European Union;

**“PIN”**

Prior Information Notice for publication in OJEU;

**“Purchasing Consortium”**

A group of public sector bodies which aggregate their requirements and by doing so exact greater leverage from the market. With the agreement of suppliers, if permissible, the consortium may offer its contracts to other local authorities or public bodies.

**“Regulations”**

The UK regulations implementing the EC public procurement directives;

**“RFQ”**

Request for quotations;

**“Standing or Approved list of Contractors”**

A method of procurement where a list of suppliers is drawn up in response to an advertisement. The potential contractors are vetted using the responses to the Pre-Qualification Questionnaire (PQQ) and the list is then used to select specific suppliers for individual contracts. Care needs to be taken to ensure that the list is carefully managed so that it does not become out dated and that it fully represents the range of innovative solutions that may be available in the market.

**“Supplier”**

Any person or body of persons providing, or seeking to provide, supplies, services or works to the Council.

## Part E - Public Questions/Speaking Procedure Rules

### 1. Council and Executive Cabinet Meetings

- 1.1 A maximum period of three minutes will be allowed for a question from a member of the public on an item on the agenda. A maximum period of 30 minutes to be allocated for public questions if necessary at each ordinary Council meeting
- 1.2 Questions should be submitted to the Democratic Services Section by midday, two working days prior to each Council meeting to allow time to prepare appropriate responses and investigate the issue if necessary.
- 1.3 The question to be answered by the Executive Member with responsibility for the service area or whoever is most appropriate.
- 1.4 On receiving a reply the member of the public will be allowed to ask one short supplementary question.
- 1.5 Members of the public will be able to stay for the rest of the meeting should they so wish but will not be able to speak on any other agenda item. Parish/Town Councils should seek to utilise the services of a Borough Ward Councillor to address the committee and must represent the authorised views of the Parish/Town Council they represent.

### 1. Development Control Committee

The right to speak

- 2.1 As part of its commitment to openness and improving the level of public participation in local government, Chorley Borough Council offers those affected by development proposals the opportunity to put their case personally and directly to the Development Control Committee when it is considering making decisions on planning and other similar applications.
- 2.2 The opportunity to speak is available to objectors to development proposals which are to be considered by the Development Control Committee. The opportunity to speak is also available to the applicant for development proposals and to their supporters. There is no obligation to speak and written representations will always be reported to Committee and given due consideration.
- 2.3 A Parish or Town Councillor from the parish affected may also speak. The request to speak must be accompanied by an appropriate form of authority from the clerk or chairperson of the Parish/Town Council (an email or letter of authority).
- 2.4 The right to speak does not replace other arrangements for commenting on planning applications. Objectors and supporters should still write to the Council in the usual way. The right to speak only applies to applications which are being determined by Committee. There is no right to speak when Officers make planning decisions under delegated powers.

#### Procedures prior to the meeting

- 2.5 About one week before the Development Control Committee is to meet, all those with the right to make a request to speak will be informed of their opportunity to do so by the Council.
- 2.6 **Any member of the public including the applicant and agents who wants to speak at the meeting will need to inform the Council's Democratic Services Section.**

This deadline will usually be 12 noon on a Monday prior to the Committee meeting to be held on the following Tuesday evening at 6.30pm at the Town Hall, Chorley. In the case of Parish/Town Councillors wishing to speak, the deadline is the Friday before the Committee meets. The request should include the appropriate authority from the parish.

- 2.7 Only one objector or supporter will be allowed to speak on each application. If other people wish to speak on the same application, the objectors/supporters should try to agree before the meeting who will put the case. The Council's Officers will try to help facilitate those agreements. If agreement cannot be reached the first person to register an intention to speak will normally be invited to do so. In the case of any uncertainty, the Chair of the Development Control Committee will adjudicate.
- 2.8 In the event that all speakers are against an application, the Chair will grant the applicant a time extension.

Planning Officers and Democratic Services Officers will be on hand half an hour before the meeting to help the arrangements to run smoothly.

## **2.9 Order of speaking at the meeting**

1. The Chair of the Committee or the relevant Planning Officer will describe the proposed development and recommend a decision to the Committee. A presentation on the proposal may also be made.
  2. An objector/supporter will be asked to speak, normally for a maximum of three minutes. There will be no second chance to address Committee.
  2. A Parish/Town Councillor will be asked to speak, normally for a maximum of three minutes.
  4. A local Councillor who is not a member of the Committee but represents a ward directly affected by the proposal may speak on the proposed development, normally for a maximum of five minutes.
  5. The applicant or her/his representative will be invited to respond, again for a maximum of three minutes. As with the objector/supporter, there will be no second chance to address Committee.
  6. The Development Control Committee, sometimes with further advice from Officers, will then discuss and come to a decision on the application.
- 2.10 There will be no questioning of speakers by Councillors or Officers, and no questioning of Councillors or Offices by speakers.
- 2.11 These arrangements are necessary to ensure that each application is deal with properly and fairly and that the Committee meeting runs smoothly and in a businesslike way.
- 2.12 Ward Councillor participation

Ward Councillors have a critical role in representing the Communities they serve. For that reason ward Councillors who are not members of the Development Control Committee may speak in respect of planning applications where the development is in their ward or would have a substantial impact on their ward.

- 2.13 Ward Councillors who wish to exercise this right must:

- Advise the Chair in advance of the meeting that they wish to speak.

- Should declare any personal interest they have in the matter.
- Must not exercise this right if their interest is both personal and prejudicial. If the Councillor is present at a meeting of Development Control Committee when an item is under discussion in which they have a personal and prejudicial interest then the Councillor must declare that interest and leave the room while the matter is under discussion. A Councillor in this position may participate as a member of the public either as the applicant or as the one objector allowed to speak but must still formally declare their interest and must withdraw from the meeting having made their representations.
- Restrict their speech to five minutes in length.

#### 2.14 Chairs Discretion

The Chair has the discretion to vary the procedures in this protocol (see 2.8) but may only do so in very exceptional circumstances where he considers that the interests of fairness or proper local government require it. Any change to the procedures should be the minimum change that the Chair considers is required in the circumstances.

### 3. Overview and Scrutiny Committee

- 3.1 A maximum period of three minutes will be allowed for a question from a member of the public on an item on the agenda. A maximum period of 30 minutes to be allowed for public questions if necessary at each meeting of the Overview and Scrutiny Committee. This will provide an opportunity for members of the public to raise and ask questions on any issue falling within the remit of the Committee.
- 3.2 Questions must be submitted to the Democratic Services Section by no later than midday, two working days before the day of the meeting to allow time to prepare appropriate responses and investigate issues if necessary.

### 4. Licensing and Public Safety Committee

4.1 A maximum period of three minutes will be allowed for a question from a member of the public on an item on the agenda, including one supplementary question. A maximum period of up to 30 minutes to be allocated for public questions if necessary at each meeting of the Licensing and Public Safety Committee.

4.2 Questions must be submitted to the Democratic Services Section by no later than midday, two working days prior to each Licensing and Public Safety Committee to allow time to prepare appropriate responses and investigate the issue if necessary.

4.3 Questions to be answered by the Chair or whoever is most appropriate as directed by the Chair.