



## Part F – Appendices

### Section F5:- Finance and Contract Procedure Rules

#### F5A:- Introduction and Overview

#### **In Part F:-**

**Section F1** contains the Member Code of Conduct

**Section F2** contains the Member Planning Protocol

**Section F3** contains the Officer Code of Conduct

**Section F4** contains the Officer/Member Relations Protocol

**This Section (F5)** contains the Finance and Contract Procedure Rules that govern how the council manages its financial affairs. The Rules are split into the following eight parts:-

- **This section (F5A)** contains an introduction and overview to the principles of good financial management, the roles and responsibilities of Officers and Members and the various documents and processes that form the council's financial management framework.
- **Part F5B** Financial Management
- **Part F5C** Financial Planning
- **Part F5D** Risk Management and Control of Resources
- **Part F5E** Financial Systems and Procedures
- **Part F5F** Contract Procedure Rules
- **Part F5G** Collaborative Working and ASDVs
- **Part F5H** Glossary



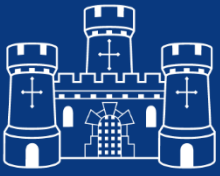
## Part F – Appendices

### Section F5:- Finance and Contract Procedure Rules

#### F5A:- Introduction and Overview

#### **A1. Introduction**

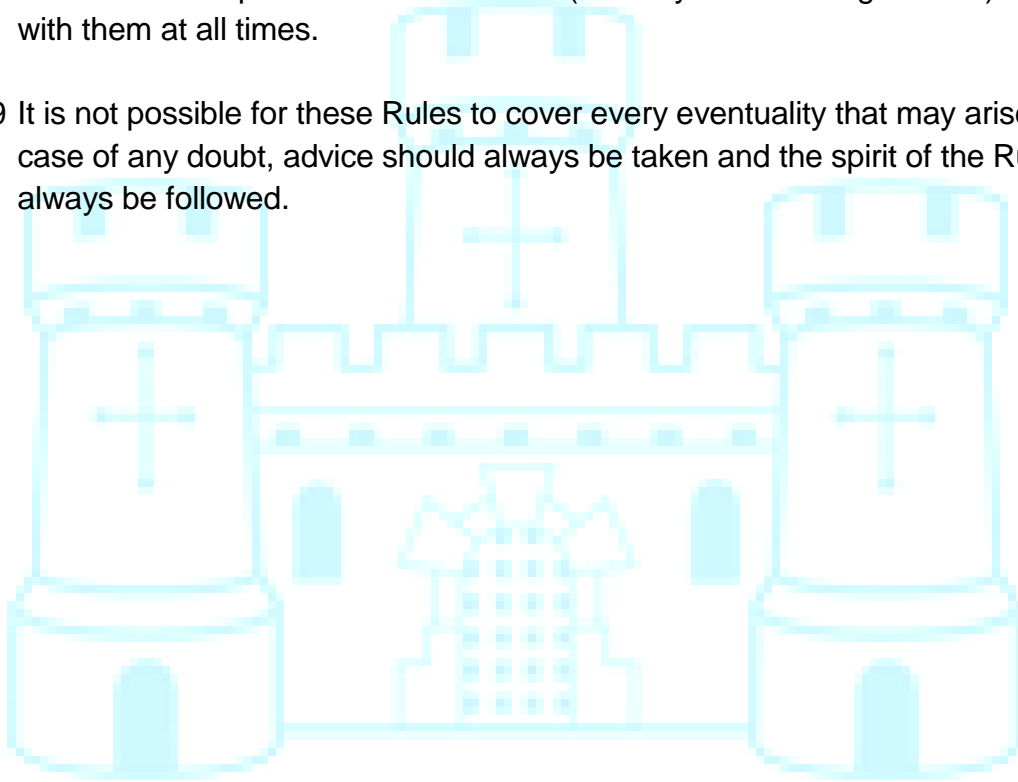
- A1.1 Section A1 of the Constitution contains an overview of the main components of the council and how they relate to each other. It explains how the decisions that the council has to make are made either by all of the elected Members acting together in a meeting of Full Council (“Council”), by the Cabinet, by committees or by Officers.
- A1.2 Section A2 explains the council’s core objective in decision-making and sets out the principles of decision-making that all Members and Officers must observe. The rest of the Constitution sets out various rules about who is authorised to take different types of decisions and how decisions should be taken and recorded.
- A1.3 Whenever a decision is taken, it will have a financial implication in terms of either a cost or a saving (which includes income) for the council. These Finance and Contract Procedure Rules (“the Rules”) provide the framework for managing those implications and setting out who is authorised to make decisions that have different types of financial implications.
- A1.4 The Rules apply to every Member and Officer of the council and anyone acting on the council’s behalf. These rules sit alongside all of the rules, codes, protocols and principles contained in or made under the Constitution. All decision makers need to ensure that they are not only empowered under the Constitution to make every decision that they propose to make, but that they are also authorised under these Rules to incur the financial implications of every decision that they make.
- A1.5 All Members and Officers are under a duty to ensure the security of resources under their control, and to ensure that the use of resources is lawful, properly authorised, provides value for money and achieves best value. Failure to comply with the Rules may lead to disciplinary action, legal action, or may even amount to a criminal offence so Officers should always seek advice from their line management if they are in any doubt about any aspects of the Rules.
- A1.6 The Section 151 Officer is responsible for keeping the Rules under review, issuing any advice or guidance, making minor amendments, or recommending significant amendments to Council as and when required.



A1.7 The Section 151 Officer is also responsible for reporting breaches of the Rules to Council and/or the Cabinet.

A1.8 The Corporate Leadership Team is responsible for ensuring that all Officers are aware of the requirements of the Rules (and any associated guidance) and comply with them at all times.

A1.9 It is not possible for these Rules to cover every eventuality that may arise. In the case of any doubt, advice should always be taken and the spirit of the Rules should always be followed.



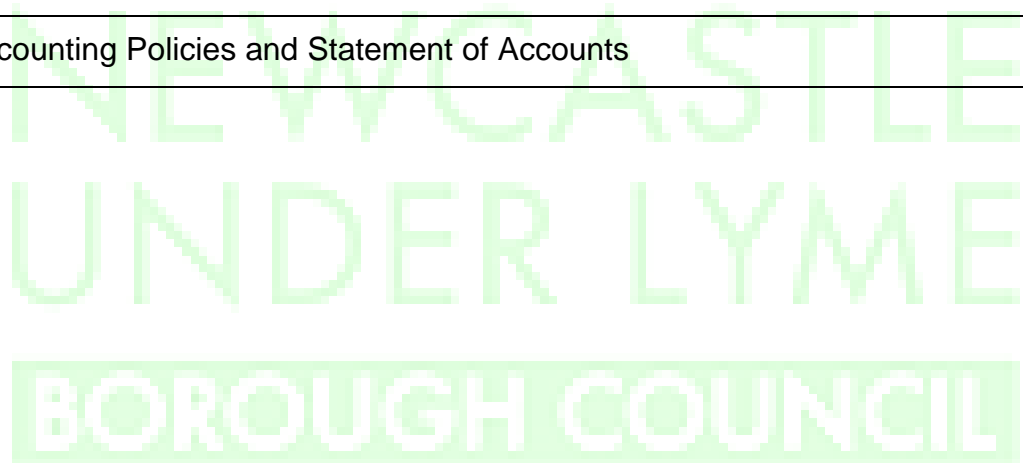
NEWCASTLE  
UNDER LYME  
BOROUGH COUNCIL



**Part F – Appendices**  
**Section F5:- Finance and Contract Procedure Rules**  
**F5B:- Financial Management**

**In this Section:-**

B1	Why is Financial Management Important?
B2	Overview
B3	What is covered in this Section?
B4	Overview of Roles and Responsibilities for Financial Management
B5	Budgeting Overview
B6	Budget Management Framework
B7	Budget changes – Virements and Supplementary Estimates
B8	Budget changes – Virement and Supplementary Estimate Approval Limits
B9	Administrative Virements
B10	Gateway Approval Process for new Capital Schemes
B11	Year End Revenue and Capital Carry Forwards
B12	Accounting Policies and Statement of Accounts





## **B1. Why is Financial Management Important?**

B1.1 Financial management is essential to ensure that public funds are kept secure and used properly to best effect. This section explains who is accountable for the proper financial management of the council.

## **B2. Overview**

B2.1 The Finance and Contract Procedure Rules (“the Rules”) form part of a set of rules and processes that must be followed to ensure effective financial management.

B2.2 In accordance with the “executive arrangements” form of local governance under the Local Government Act 2000, Council decides who will discharge the various functions that it is responsible for. This is set out in the Constitution that records the delegation of power to the Cabinet, committees and Officers.

B2.3 Council also approves and adopts these Rules that are contained within the Constitution. These Rules provide a framework for managing the council’s financial affairs, and the financial implications of decisions made under the delegation arrangements set out in the Constitution. These Rules apply to everyone who makes decisions for the Council or on its behalf.

B2.4 The Rules set out the financial limits that Members and Officers must operate within. Beneath these Rules, the Section 151 Officer also maintains a table of financial authorisation limits for Officers within each individual service (“Financial Scheme of Delegation”).

B2.5 There are also Codes of Practice in force from time to time that set out the steps of any detailed procedures or processes that need to be followed to ensure the Rules are properly applied in practice. These are issued by the Section 151 Officer.

## **B3. What is covered in this Section?**

B3.1 This Section contains a short “high level” overview of the roles and responsibilities delegated by the Constitution, including Council, Cabinet, committees and Officers.

B3.2 This section also contains an overview of the process for approving changes to the council’s budget, including:

- a) When Section 151 Officer and/or Member approval is required
- b) what can be approved within services



c) accounting policies and statement of accounts

#### **B4. Overview of Roles and Responsibilities for Financial Management**

B4.1 The Constitution sets out in detail the arrangements Council has put in place for decisions to be taken by Members and Officers. These Rules apply to the financial implications of all decisions taken under those arrangements. It is important that all decision makers are familiar with the provisions in the Constitution and these Rules that, together, authorise them to make decisions.

B4.2 The following is a “high level” summary of the decision making arrangements contained in the Constitution:-

- a) Council. Council adopts the Budget and Policy Framework. It also is responsible for discharging a number of functions it has “reserved” for itself. Council has also constituted a number of committees that discharge delegated powers. Part B of the Constitution contains information about the roles and responsibilities of Council and its committees.
- b) The Cabinet. The Cabinet is responsible for proposing the Budget and Policy Framework to Council. Once approved, the Cabinet is responsible for taking all the necessary steps to implement it. The Cabinet operates collectively and, in cases of urgency, through individual Cabinet Members. Part C of the Constitution contains information about the roles and responsibilities of the Cabinet and individual Cabinet Members.
- c) Officers. Officers are responsible for the vast majority of day-to-day operational decisions under powers delegated to them by both Council and the Cabinet. In addition, there are certain specified Officers (“Statutory” and “Proper Officers”) who are responsible for discharging certain specified functions. Part E of the Constitution contains more information about the roles and responsibilities of Officers.

#### **B5. Budgeting Overview**

B5.1 In February each year, Council sets a budget for the following financial year. Inevitably, in a large and complex organisation, changes will need to be made to this approved budget during the year. To ensure that there is appropriate approval and control over these changes, the council operates two main approaches. These are:-



- a) Changes that have a material financial or policy impact will generally require the approval of the Section 151 Officer and/or Members. The type and level of approval required will depend on the nature of the proposed changes and the source of funding. Specific guidance on the approval process is set out below.
- b) Changes that are of an administrative nature can be approved by Service Directors. Financial approval limits generally for individual Officers are set out in the table maintained by the Section 151 Officer. This table is reviewed on at least an annual basis and published on the intranet.

## **B6. Budget Management Framework**

B6.1 The Section 151 Officer is responsible for establishing an appropriate framework of budget management and controls which ensures that:-

- a) budget management is exercised within the annual budget, unless Council agrees otherwise
- b) each Service Director has timely information available on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
- c) expenditure is committed only against an approved budget
- d) all Officers responsible for committing expenditure comply with relevant guidance, including the Finance and Contract Procedure Rules
- e) Each cost centre has a single named budget manager, determined by the relevant Service Director and notified to the Section 151 Officer
- f) significant variances from approved budgets are investigated and reported by budget managers regularly.

B6.2 Service Directors are responsible for maintaining budgetary control within their departments, in adherence to the principles set out in this document and, in particular:-

- a) to ensure that all income and expenditure is properly recorded and accounted for
- b) to ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Service Director (grouped



together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure

- c) to ensure that spending remains within the service's overall approved budget, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast
- d) to ensure that a monitoring process is in place to review performance and service levels in conjunction with the budget
- e) to prepare and submit reports to the Cabinet on the service's projected expenditure compared with its budget, in consultation with the Section 151 Officer
- f) to ensure prior approval at the appropriate level for new proposals that create financial commitments in future years, change existing policies, initiate new policies or materially extend or reduce the council's services
- g) to ensure compliance with the scheme of virement set out in B7 to B9 below
- h) to agree with the relevant Service Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Service Director's level of service activity
- i) to ensure best value is obtained in service delivery
- j) to ensure that resources are used only for the purposes for which they were intended
- k) to prepare regular reports in the approved format on overall financial and non-financial performance and progress against planned service outcomes (as part of the Council Plan/Priority Delivery Plans), and for submitting these to the Cabinet and the relevant Scrutiny Committee after consulting the Section 151 Officer, in accordance with agreed procedures. Service Directors will report periodically to their capital oversight/review group on the progress and forecast of all capital expenditure and income against the approved programme.

### B6.3 The key reporting stages are:





- a) approval of service outcome plans, including budget statements and performance targets
- b) approval of projects through the relevant capital oversight/review group to be included in the Capital Programme
- c) quarterly reviews of revenue and capital expenditure. Final outturn reports for both revenue and capital expenditure, including full post-implementation review, on all capital schemes completed during the year.

B6.4 In addition, the reports will be specifically required to give details in respect of the following:-

- a) potential overspends and proposed remedial action, including any impact on future year's budgets which may need consideration in the on-going Medium Term Financial Strategy for policy and financial planning
- b) amendments to approved budgets such as supplementary revenue and capital estimates where Member approval is required
- c) write off of bad debts or assets where Member approval is required.

## **B7. Budget Changes – Virements and Supplementary Estimates**

### *Introduction and Explanation*

B7.1 Council sets the budget in advance of each financial year. It does so by determining how much the council will spend (and receive) through service delivery, in total, in each financial year. Council then allocates these amounts to different budget areas or "lines" for different services, and then for different purposes or functions within individual services.

B7.2 As part of setting the budget, Council also approves the capital programme each year. The capital programme comprises a series of rolling annual allocations for one off projects like ICT infrastructure renewal, vehicle fleet replacement, property acquisitions or upgrades and regeneration projects. Each of these specific projects is represented by a separate line in the capital programme. There can be, within each capital programme allocation, a number of individual schemes.



- B7.3 During the course of the year, services may wish to undertake an activity not originally identified in the approved budget. There might also be circumstances in which delivering a planned activity will cost more than anticipated or generate less income than anticipated.
- B7.4 There might also be, during any financial year, a need to alter the capital programme to add, prioritise or accelerate a particular scheme, or to deal with cost increases as a scheme progresses.
- B7.5 In order to accommodate these changes with no overall impact on the approved service budgets, funds will either have to be transferred between different lines of the budget Council has approved, or new funding will have to be brought into the budget lines that Council has approved. New funding typically comes from external sources such as unanticipated income or grant funding. In some cases, it might come from reserves or borrowing.
- B7.6 The transfer of funds between the budget lines that Council has approved is known as a virement. Where it relates to service provision or recurring spend, it is known as a revenue virement. Bringing new funding into the budget lines that Council has approved is known as a supplementary estimate. This will be either a capital supplementary estimate or a revenue supplementary estimate depending on whether the additional funding is needed for service provision/recurring spend or “one-off” spend on a project in the capital programme.
- B7.7 Virements and supplementary estimates can often mean that activities or outcomes Council approved and is expecting to be delivered when setting the budget and policy framework are going to change. For this reason, different levels of authorisation for virements and supplementary estimates are needed depending on the potential impacts. The various authorisation requirements are set out below.
- B7.8 Where a proposed virement or supplementary estimate would involve transferring funds from the general fund reserve it must be approved by Council regardless of value. Even where a proposed virement or supplementary estimate does not draw on reserves, Council approval will nevertheless be required if the proposal will have significant implications (as determined by the Section 151 Officer) for future years’ budgets. Examples of this include borrowing, or utilising capital receipts, beyond any limitations set by council in the budget.
- B7.9 This is because there are certain requirements around maintaining adequate levels of reserves and preserving the security of future year’s budgets that can only be



determined by Council on the advice of the Section 151 Officer. It is important that these controls are not circumvented by the virement/supplementary estimates scheme.

B7.10 The finance team must be consulted where there is any uncertainty as to the need for a virement or supplementary estimate, or in applying of the approval limits below to arrive at the correct authorisation process.

### **B8. Budget Changes – Virement and Supplementary Estimate Approval Limits**

B8.1 Where the proposal does not involve transferring funds from general reserves, the approval levels are as follows:

#### *Revenue Virements/Supplementary Estimates*

<b>Approver</b>	<b>Approval Limit</b>
Service Directors	Up to £50k
Section 151 Officer in consultation with relevant Cabinet Member(s)	£50k< to £100k
Cabinet	£100k< to £1m
Council	£1m<

#### *Capital Virements/Supplementary Estimates*

<b>Approver</b>	<b>Approval Limit</b>
Service Director	Up to £50k
Section 151 Officer in consultation with relevant Cabinet Member(s)	£50k< to £250k
Cabinet	£250k< to £2m
Council	£2m<

B8.2 It is important to remember that if a proposed virement or supplementary estimate would involve transferring funds from the general fund reserve, or if (in the opinion of the Section 151 Officer) it will have significant implications on future years' budgets, it must be approved by council.

B8.3 Where a report taken to Cabinet/Council or an Officer Decision Notice ("ODN") results in the approval of a recommendation which necessitates a virement or supplementary estimate, there is no further/separate requirement to seek authorisation for the virement or supplementary estimate in question so long as:-

- a) The approving body is authorised to approve the virement or supplementary estimate in question by reference to the approval limits above; and,



- b) The financial implications section of the report or ODN in question deals with the issue of virement/supplementary estimates

**B9. Administrative Virements**

B9.1 Some virements are essentially of an administrative nature, as they do not involve a change from existing approved policies. Administrative virements would include the following examples:-

- a) implementation of restructuring and reorganisation proposals that have already received the appropriate level of Officer and Member approval
- b) routine changes to the structure of the chart of accounts
- c) changes to notional accounting budgets which are required for reporting purposes but which do not affect the council's cash expenditure. Examples include changes to the depreciation and deferred grants budget

B9.2 Where the virement is (as determined by the Section 151 Officer) solely of an administrative nature, approval is only required from the Section 151 Officer or Deputy Section 151 Officer.

**B10. Gateway Approval Process for new Capital Schemes**

B10.1 Where services wish to undertake a new capital scheme which is not already included in the council's approved capital programme, they must (regardless of value) follow the relevant "Gateway" approval process from time to time in force. The purpose of Gateway approval processes is to stress test or scrutinise proposals prior to seeking formal Member/Officer authorisation to proceed.

B10.2 The Gateway approval process will vary depending on the nature and cost of a scheme but will typically require the preparation of a business case in a prescribed form, the business case will go through a process of consideration at Member/Officer level that may include a scheme or project specific Member/Officer/stakeholder oversight board or group.

B10.3 The Section 151 Officer will devise and publish Gateway approval processes on the intranet (from time to time) along with any prescribed forms of documents that relate. Advice should be sought from the finance team on a case-by-case basis to confirm the appropriate approval process.



B10.4 Once the relevant “Gateway” approval process has been completed, all other formal governance approvals must be completed before incurring unbudgeted expenditure on the scheme. For example, if supplementary estimates or virements are required, the approval processes set out above must be completed. Formal, reasoned decisions should be taken at Council, Cabinet or Officer level (as the case may be) and documented, informed by the outcome of the Gateway approval process. All contract and procurement procedure rules must then be followed.

## B11. Year End Revenue and Capital Carry Forwards

### *Carry Forward of Underspend*

B11.1 During the course of the financial year, services can request permission to provisionally carry forward an underspend at year-end. In-year, these carry forwards will be approved in principle as subject to outturn. The approval limits for these in-year individual carry forwards are:

#### *Revenue*

Approver	Approval Limit
Section 151 Officer	Up to £100k
Cabinet	£100k<

#### *Capital*

Approver	Approval Limit
Section 151	Up to £250k
Cabinet	£250k<

B11.2 All carry forward proposals must be supported by the appropriate justification demonstrating that the resources carried forward will be earmarked for a specific purpose or issue. Service Directors should include provisional indications of likely carry forward requests in their quarterly reviews of performance.

B11.3 Before approval is sought for a carry forward, Service Directors should ensure that there are no unfunded overspends within their department. It is extremely unlikely that proposed carry forwards for a service will be approved if there are unfunded overspends elsewhere within the department.

B11.4 For capital budgets, underspends against rolling annual allocations funded from council resources or non-ring-fenced grant funding will only be approved on an exception basis, with any commitments expected to be the first call on the following year’s capital allocation. For committed one-off schemes, re-profiling into future



years will be automatically approved provided the scheme remains a priority for the council at that time.

**B12. Accounting Policies and Statement of Accounts**

B12.1 The Section 151 Officer is responsible for the preparation of the Council's Statement of Accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Council Accounting in the United Kingdom for each financial year ending 31 March.

B12.2 The key controls for accounting policies are:-

- a) Systems of internal control that ensure financial transactions are lawful
- b) Suitable accounting policies are selected and applied consistently
- c) Accurate and complete accounting records are maintained
- d) Financial statements are prepared which present a true and fair view of the financial position of the Council.

B12.3 The Section 151 Officer is responsible for:-

- a) selecting suitable accounting policies and ensuring that they are applied consistently
- b) exercising supervision over financial and accounting records and systems
- c) preparing and publishing reports containing the statements on the overall finances of the council including the council's Annual Report and Accounts.

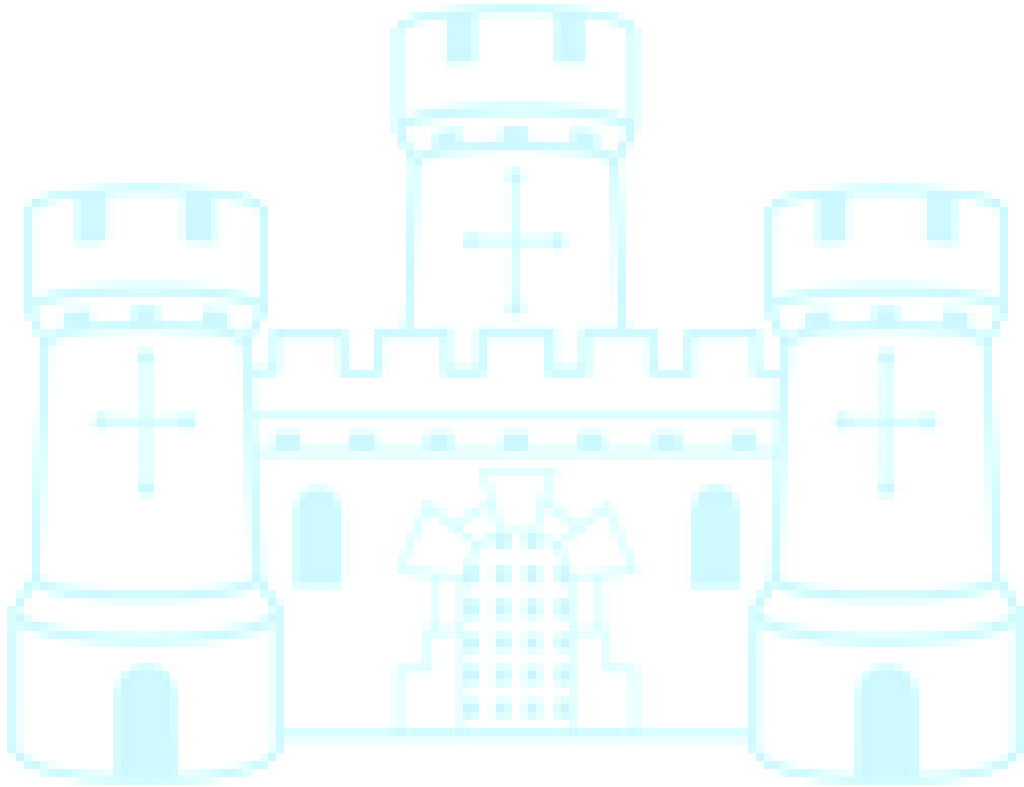
B12.4 The Section 151 Officer is responsible for determining the accounting procedures and records for the council. All accounting procedures will be approved by the Section 151 Officer.

B12.5 Service Directors are responsible for ensuring that staff in their departments are aware of, and adhere to, the accounting policies, procedures and guidelines set by the Section 151 Officer.



NEWCASTLE·UNDER·LYME  
BOROUGH COUNCIL

B12.6 All accounts and accounting records will be compiled by the Section 151 Officer or under his/her direction. The form and content of records maintained in other directorates will be approved by the Section 151 Officer.



NEWCASTLE  
UNDER LYME  
BOROUGH COUNCIL



**Part F – Appendices**  
**Section F5:- Finance and Contract Procedure Rules**  
**F5C:- Financial Planning**

**In this Section:-**

C1	Why is Financial Planning important?
C2	What is covered in this Section?
C3	Policy Framework
C4	Revenue Expenditure
C5	Revenue Budget Preparation
C6	Budget Monitoring and Control
C7	Determination, Monitoring & Control of affordable borrowing
C8	Responsibility for borrowing
C9	Capital Expenditure
C10	Capital Approvals and Strategic Projects
C11	Capital Monitoring and Amendments to the Capital Programme
C12	Capital Receipts
C13	Leasing and Rental Agreements
C14	Maintenance of Reserves





**C1. Why is Financial Management Important?**

C1.1 Section A1 of the Constitution explains how Council adopts the Budget and Policy Framework following proposals from the Cabinet, and that once adopted the Cabinet is responsible for its implementation. In terms of financial planning, the key elements of the Budget and Policy Framework are as follows. These might go by different names from time to time.

**C2. What is covered in this Section?**

C2.1 This section contains information on:-

- a) Policy Framework
- b) Budgeting
- c) Format of the Budget
- d) Revenue Budget Preparation, Monitoring and Control
- e) Determination, Monitoring and Control of Affordable Borrowing
- f) Resource Allocation
- g) Capital Programmes
- h) Leasing and Rental Agreements
- i) Maintenance of Reserves
- j) Reporting

**C3. Policy Framework**

C3.1 Council is responsible for approving the Budget and Policy Framework. The policy framework will comprise the statutory plans and strategies which the Council is required to produce.

C3.2 Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.

C3.3 Council is responsible for approving the process to enable changes to be made to the budget during the financial year. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

C3.4 Each year the Council produces:-

- a) The Council Plan detailing its objectives and targets over a 3 to 4 year planning horizon



- b) A Medium Term Financial Strategy detailing the financial and service scenario over a 3 to 4 year planning horizon and the policy and expenditure options required to respond to this scenario.
- C3.5 The Section 151 Officer will advise Council on the financial environment, financial policies, including the appropriate levels of reserves and contingencies, the amount of borrowing outstanding and an appropriate treasury management strategy. The Section 151 Officer will also advise Council on the policy and expenditure options to assist in the determination of its Budget. Individual Service Directors will support this process by assessing and advising on the service scenario and policy and expenditure options for revenue and capital in their area of responsibility, in a form determined by the Section 151 Officer.
- C3.6 The Cabinet, advised by the Section 151 Officer, will develop a budget package including financing options, policy and expenditure options and a capital programme. This will be subject to review by the relevant Scrutiny Committee and Cabinet before consideration by Council. The final Budget and Council Tax precept will be determined by Council.
- C4. Revenue Expenditure**
- C4.1 Revenue expenditure is broadly defined as any expenditure incurred on the day-to-day running of the Council. Examples of revenue expenditure include salaries, energy costs, and consumable supplies and materials.
- C5. Revenue Budget Preparation**
- C5.1 The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Cabinet, before submission to Council. Council may amend the budget or ask the Cabinet to reconsider it before approving it in accordance with the Constitution.
- C5.2 It is the responsibility of Service Directors to ensure that budget estimates reflecting agreed plans are submitted to the Cabinet and that these estimates are prepared in line with any guidance issued by the Section 151 Officer.
- C5.3 The Section 151 Officer is responsible for approving the council's tax base for the forthcoming year and reflecting this within the budget.
- C5.4 The Cabinet will then submit a 'final budget' to Council for approval.



C5.5 The Section 151 Officer is responsible for reporting to Council on the robustness of estimates contained within the budget proposed by the Cabinet and the adequacy of reserves allowed for in the budget proposals.

C5.6 Council shall not approve additional net expenditure to either revenue or capital budgets without first having considered the advice of the Cabinet and the Section 151 Officer on the financial implications arising.

**C6. Budget Monitoring and Control**

C6.1 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations at a corporate level and report to the Cabinet on the overall position on a regular basis.

C6.2 It is the responsibility of the Corporate Leadership Team to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Section 151 Officer. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer to any problems.

C6.3 In addition, the Section 151 Officer will:-

- a) administer the Council's scheme of virements and supplementary estimates (both administrative and those requiring Member approval)
- b) prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis

**C7. Determination, Monitoring & Control of Affordable Borrowing**

C7.1 Under the Local Government Act 2003, the Council is required to have regard to the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code for Capital Finance in Local Authorities (Prudential Code).

C7.2 The key objectives of the Prudential Code are to ensure that within a clear framework the capital investment plans of local authorities are affordable, prudent and sustainable. A further objective is to ensure that treasury management activity supports prudence, affordability and sustainability.



C7.3 The Prudential Code requires that prior to the commencement of the financial year the following prudential indicators for the forthcoming financial year and at least the two subsequent financial years must be approved by Council.

C7.4 The minimum indicators required for the following three year period are:-

- a) estimates of the ratio of financing costs to net revenue stream
- b) estimates of capital expenditure and how it will be financed
- c) estimates of the increases in Council Tax and Weekly Rents that would result from the totality of the estimated capital expenditure
- d) estimates of capital financing requirements (underlying need to borrow for a capital purpose) and estimated level of gross external borrowing (total debt)
- e) the authorised limit for external debt
- f) the operational boundary for external debt
- g) a limit on the amount of fixed rate investments and fixed rate borrowing the Council may have during the year
- h) a limit on the amount of variable rate investments and variable rate borrowing the Council may have during the year
- i) the maximum proportion of fixed rate loans maturing in specified periods
- j) the maximum amount to be invested for longer than 1 year

C7.5 After the year end, actual values are to be calculated for:-

- a) ratio of financing costs to net revenue stream
- b) capital expenditure
- c) capital financing requirement
- d) external debt



C7.6 In addition, Council will set for itself the following local Financial Health Indicators (FHIs) for the current year, the following year and the two successive years:

- a) interest and debt repayment costs as a % of net budget
- b) the total borrowing requirement as a % of the Council's net budget

## **C8. Responsibility for Borrowing**

C8.1 The Section 151 Officer is responsible for:-

- a) establishing procedures to both monitor performance against all forward looking prudential indicators and for ensuring that gross external borrowing does not exceed the Council's authorised limit
- b) reporting to Council any significant deviations from expectations
- c) ensuring that regular monitoring is undertaken in year against the prudential indicators of affordability and sustainability by reviewing estimates of financing costs to revenue, the capital financing requirement and the local FHIs
- d) reporting to Council, setting out management action, where there is significant variation in the estimates used to calculate these prudential indicators, for example caused by major overruns of expenditure on projects or not achieving in-year capital receipts

## **C9. Capital Expenditure**

C9.1 Capital expenditure is broadly defined as expenditure, on the acquisition of an asset, or expenditure which adds to (rather than merely maintains), the value of an existing asset. It also includes spending that extends the useful life of an asset and increases usability, provided that the asset yields benefits to the council and the services it provides for a period of more than one year.

## **C10. Capital Approvals and Strategic Projects**

C10.1 The council has developed a Gateway approval process that sets out the process, procedure and documentation that must be used for all proposals to be included in the council's approved capital programme and for strategic projects. The purpose of this process is to ensure that all proposals are both affordable and fit with corporate priorities. Details of the processes (and relevant documentation) that must be followed are published on the intranet.



C10.2 The Section 151 Officer will review this process as required and it is the responsibility of each project manager to ensure that they keep up to date with the process and documentation.

### **C11. Capital Monitoring and Amendments to the Capital Programme**

C11.1 As part of the annual policy and planning process, schemes in the capital programme which have not reached an advanced stage will be reconsidered.

C11.2 All capital schemes and allocations should be approved through the annual capital programme setting process, within the timetable set out by the Section 151 Officer and approved at the annual budget setting Council.

C11.3 In exceptional cases, there will be a need for a new capital project to be approved in-year. The Gateway Approval Process for these in-year schemes is set out in Rule B10 of Section F5B (Financial Management).

C11.4 Project managers must ensure that the project specification remains consistent with the approved business case and continues to represent value for money for the council. Where project outcomes or costs alter significantly from those originally approved, a revised Business Case must be completed for approval through the Gateway approval process.

C11.5 Wherever possible, expenditure funded by rechargeable works should be included in the Capital Programme. Where this is not possible, Service Directors may approve (in consultation with the Section 151 Officer) capital expenditure in respect of urgent work to repair, replace or reinstate vehicles, buildings or equipment where the work is to be fully funded from insurance monies.

C11.6 In addition, Service Directors may authorise essential design work subject to available budget required in advance of the start of the financial year on capital schemes that are in the programme approved by Council in February.

### **C12. Capital Receipts**

C12.1 The Section 151 Officer must be informed of all proposed sales of land and buildings so that the effect on financial and property management can be assessed.

C12.2 Council will determine, in each budget setting process, the amount of receipts to be set aside for the repayment of debt and how the balance of such receipts is to



be used in the coming financial year. Use of unbudgeted receipts arising in-year shall be subject to the scheme of virement/supplementary estimate (Rule B8.1).

**C13. Leasing and Rental Agreements**

C13.1 Leasing or renting agreements must not be entered into unless the service has established that they do not constitute a charge against the Council's prudential borrowing limits. Advice can be obtained from the Section 151 Officer on general leasing arrangements and on whether the lease is a finance or operating lease.

C13.2 The Section 151 Officer's approval must be obtained for all agreements that may involve a leasing charge, excluding leases relating to land or property.

**C14. Maintenance of Reserves**

C14.1 The Section 151 Officer is responsible for advising the Cabinet and/or Council on prudent levels of reserves for the Council, taking into account of the advice of the external auditor.

C14.2 The key controls are:

- a) to maintain reserves in accordance with the Code of Practice on Local Council Accounting in the United Kingdom and agreed accounting policies
- b) for each reserve established, the purpose, usage and basis of transactions should be clearly identified
- c) authorisation of expenditure from the General Fund Reserve is in accordance with the limits set out in F4B (Financial Management) Rule B8.2. Expenditure from Earmarked Reserves/Contingencies is to be authorised by the Section 151 Officer. In addition, the Section 151 Officer may authorise any (in any amount):-
  - i. any appropriation to and from reserves of unused grant and contribution income
  - ii. any appropriation where there is a legislative requirement (or equivalent), and the Council has no discretion in undertaking the transfer
  - iii. any appropriation within the budget agreed by Council



**Part F – Appendices**

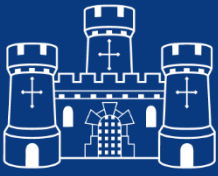
**Section F5:- Finance and Contract Procedure Rules**

**F5D:- Risk Management and Control of Resources**

**In this Section:-**

D1	Insurance
D2	Risk Management
D3	Business Continuity
D4	Internal Controls
D5	Internal Audit
D6	External Audit
D7	Preventing Fraud and Corruption
D8	Assets
D9	Property
D10	Inventories
D11	Stocks
D12	Cash
D13	Asset disposal and Write off
D14	Treasury Management
D15	Investments and Borrowings
D16	Funds held for Third Parties
D17	Salaries and Wages
D18	Early Retirement and Severance
D19	Travelling and Subsistence
D20	Code of Conduct
D21	Retention of Records





**D1. Insurance**

- D1.1 The Service Director Legal and Governance is responsible for preparing the Council's risk management policy statement on behalf of the Corporate Leadership Team (CLT), for promoting it throughout the council and for advising Cabinet on appropriate insurance cover.
- D1.2 The Service Director Legal and Governance will maintain and administer the Council's insurances in accordance with the Risk Management Strategy that describes the Council's approach to managing risk.
- D1.3 The Service Director Legal and Governance is responsible for authorising the settlement or repudiation of insurance claims and associated costs. Advice will be sought from the council's insurance solicitors and insurers.
- D1.4 Service Directors are responsible for informing the Service Director Legal and Governance immediately of:-
- a) any insurance claims received
  - b) any events which may result in an insurance claim against the council
  - c) the terms of any indemnity that the council is required to give prior to entering into any contracts, agreements, partnership or arrangements.
  - d) any new risks that might require to be insured, together with any changed circumstances affecting existing risks. Consideration should be given to new projects, new ways of working and changes in legislation where insurance impacts are often overlooked
  - e) changes to the assets insured by the council
  - f) changes to the responsibility of the council
- D1.5 No new insurances may be taken out without prior consultation with the Service Director Legal and Governance.
- D1.6 Service Directors must ensure the retention of documents in accordance with the corporate retention policy and that there is co-operation with the risk and insurance team in providing the correct documentation within the strict timescales of the Civil Procedure Rules when dealing with claims.



D1.7 Service budgets will be charged with the cost of legal penalties or losses incurred by the Council because of any failure to comply with the requirements of the Civil Procedure Rules and these Finance and Contract Procedure Rules relating to claims.

## **D2. Risk Management**

D2.1 The Council's approach to risk management is that it should be effective in helping to optimise the balance between risk taking and control, maximising opportunities and encouraging innovation.

D2.2 Service Directors are responsible for ensuring the Risk Management Policy and Strategy is implemented and that the Risk Management Framework operates within their Services. Risk management should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.

D2.3 There are several levels of risk register within the council. There should be a movement of risks both upwards and downwards through the levels and treatment so that risks are addressed at the most appropriate level of the organisation:-

- a) Corporate Risk Register - contains risks that impact on the organisation's overall objectives either because of their frequency of occurrence across several services or the significance of the impact
- b) Service Risk Registers - contain strategic and operational risks that impact on the delivery of service objectives
- c) Team Risk Registers – there may be very specific operational risks that affect the delivery of team priorities that are not recorded in Service Risk Registers. These should be recorded in Team Risk Registers which should act as a feeder for risks to be elevated to the Service Risk Register if needs be
- d) Programme/Project Risk Register – contain risks associated with individual projects. Due to the speed of project delivery, these risks are more likely to be more dynamic and must be more frequently monitored and reported

D2.4 Service Directors are responsible for ensuring risk management is carried out at both an operational and strategic level in accordance with the corporate risk management framework.



- D2.5 Service Risk Registers are a perpetual living document and should be reviewed and reported at least quarterly. They must align with the relevant Priority Delivery Plan as an important part of monitoring performance and outcomes as well as helping to inform the Council's risk appetite and the Corporate Risk Register.
- D2.6 Service Directors will take account of and address corporate risks where appropriate within their Service Risk Register. They will inform the risk and insurance team of any service risks that could be considered significant enough to highlight at a corporate level.
- D2.7 The Corporate Risk Register is maintained by the Service Director Legal and Governance. It will be reported to the Corporate Leadership Team on a regular basis.
- D2.8 The Audit and Standards Committee will also receive risk management reports on a regular basis to monitor the effective development and operation of risk management in the Council. The Committee provides independent assurance of the adequacy of the risk management framework and the internal control environment.

### **D3. Business Continuity**

- D3.1 The Corporate Leadership Team is responsible for determining the Business Continuity Strategy and ensuring it is compliant with the Civil Contingencies Act 2004. Service Directors are responsible for implementing it and monitoring its effectiveness.
- D3.2 The Service Director Strategy, People and Performance develops the strategy and supporting framework on behalf of the Corporate Leadership Team.
- D3.3 The Audit and Standards Committee is responsible for approving the Business Continuity Strategy and reviewing its effectiveness as part of the risk management framework and the internal control environment.
- D3.4 Service Directors are responsible for ensuring that arrangements are in place to ensure the continuity of service delivery in the event of a disruptive incident. This is managed through the development of robust Business Continuity Plans that are regularly maintained and tested in accordance with the Business Continuity Strategy.



D3.5 Service Directors are responsible for ensuring that arrangements/contracts for significant areas of service provision include requirements for contractors, partners and suppliers to have robust and tested business continuity plans. This should include the ongoing monitoring and compliance with this requirement via contract performance management and, where necessary, joint exercises.

**D4. Internal Controls**

D4.1 The Section 151 Officer and Service Director Legal and Governance are responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes, regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

D4.2 It is the responsibility of Service Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

**D5. Internal Audit**

D5.1 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 more specifically require that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.

D5.2 The Public Sector Internal Audit Standards (PSIAS) defines Internal Audit as “an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes”.

D5.3 This function can be delivered by a team internal to the council or it can be contracted out under the supervision of the Section 151 Officer.

D5.4 The Accounts and Audit Regulations 2015 require the council to review the effectiveness of its governance framework, including the system of internal control, on an annual basis and report the results in an Annual Governance Statement.



This statement must provide a description of the governance framework within the council, a description of any work undertaken to assess its effectiveness and any significant governance weaknesses identified.

- D5.5 To contribute to the production of the Annual Governance Statement, the Section 151 Officer is responsible for planning and delivering a programme of independent review of the council's activities, the scope of the programme being based on the council's objectives and an assessment of the risk, which may affect the achievement of these objectives.
- D5.6 The Section 151 Officer is also responsible for reporting to those charged with governance and can satisfy this requirement by presenting an annual report to the Audit and Standards Committee, summarising the audit plan for the coming year and a commentary on audit activity which is completed or in progress. Quarterly reports setting out progress against the annual audit plan and delivery against its key performance indicators are also taken to the Audit and Standards Committee. In addition, any matters of material importance in relation to audit matters are also reported to Cabinet and the Audit and Standards Committee.
- D5.7 Audit staff will have full access to all premises, staff, assets, records and third party fund transactions as is necessary to conduct their reviews. With regards to organisations participating in partnering arrangements, including alternative delivery vehicles where provided for in the contract or service level agreement, audit staff shall have such access to premises, staff, assets and records of the partner as is necessary for the purposes of the partnering arrangement.
- D5.8 Partners will be required to grant reasonable access when requested and details of such access should be agreed with the partner and set down in the partnering agreement. Where the right of access has not been specified in existing arrangements then appropriate discussions with partners should take place. Similar rights of access should be determined as part of the establishment of any alternative service delivery vehicles, and should be similarly agreed and documented in the contract or service level agreement.
- D6. External Audit**
- D6.1 The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.



D6.2 The Local Audit and Accountability Act 2014 (the Act) established new arrangements for the audit and accountability of relevant authorities and these new arrangements include the ability for local authorities to appoint their own local (external) auditors via an 'auditor panel'. An auditor panel can be established individually or jointly with one or more other authority.

D6.3 The Council may, from time to time, also be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

## **D7. Preventing Fraud and Corruption**

D7.1 The Section 151 Officer is responsible for the development and maintenance of an Anti-Fraud and Corruption Strategy.

D7.2 The Council has an approved Anti-Fraud and Corruption Strategy that places responsibility for maintaining an anti-fraud culture with all Members, managers and individual members of staff. Any matters which involve, or are thought to involve, any fraud or other significant irregularity involving council assets or those of a third party fund, must be notified immediately to the Section 151 Officer, in conjunction with other Officers detailed in the council's Anti-Fraud and Corruption Strategy, who will decide what steps are necessary.

D7.3 In line with the Anti-Fraud and Corruption Strategy, the Service Director Legal and Governance in his/her role as Monitoring Officer will, in consultation with the appropriate Service Directors, decide whether any matter under investigation should be referred to the Police or appropriate enforcement agency.

## **D8. Assets**

D8.1 In the context of these Rules, assets are defined as the resources, other than people, that the Council uses to deliver its service functions. Assets include buildings, land, infrastructure, furniture, equipment, plant, vehicles, stores and intellectual property such as computer software, data and information of all kinds.

D8.2 Service Directors are responsible for the care, control and proper, economical use of all assets used in connection with the operation and delivery of their Services. Proper records should be maintained for these assets, together with appropriate arrangements for their management and security.

D8.3 Service Directors are responsible for ensuring that assets are used only for official purposes and that all appropriate rights, licenses and insurances are obtained.



D8.4 Service Directors are responsible for ensuring that all computer software used is properly licensed.

D8.5 Service Directors are expected to have policies in place for:-

- a) the effective disposal of surplus assets
- b) asset replacement programme
- c) compilation of and regular review of asset inventories

**D9. Property**

D9.1 The Council's approach to property asset management is based on two main principles:-

- a) property is a corporate resource, owned by the council, not by individual services. This principle underpins the fact that property is one of the council's most expensive resources and that it needs to be managed proactively to support service delivery and improvement across all services
- b) property is held to support the delivery of the council's corporate objectives. This is to be delivered through a rigorous policy of property review and the disposal of any properties that are no longer required to meet corporate objectives

D9.2 The council's policies, aims and objectives relating to property asset management are explained further in the asset management strategy.

D9.3 Property assets are comparatively "illiquid" and changes necessarily take time to implement. Service Directors should be aware of this when planning new initiatives or changes to service delivery patterns and must ensure that the Service Director Commercial Delivery is consulted at the earliest possible stage of the planning process in order that appropriate advice and support can be given.

D9.4 Service Directors are responsible for ensuring that property under their day to day control is occupied/used in accordance with all appropriate legal and regulatory requirements and that nothing occurs which might diminish the value of the asset. Particular care is required when carrying out alterations to a building and where



any form of shared use with another organisation is planned. The advice of the Service Director Commercial Delivery must be obtained before this is permitted.

D9.5 All property acquisitions, lettings and disposals must be negotiated and approved in accordance with the Property Scheme of Delegation.

**D10. Inventories**

D10.1 Service Directors must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items, including vehicles, furniture, computer and other equipment (including software), visual aids, expensive tools and sports equipment.

D10.2 The inventory must be updated for all acquisitions and disposals and checked at least annually. Items acquired under leasing arrangements must be separately identified for disclosure in the published final accounts.

**D11. Stocks**

D11.1 Stock are defined as consumable items constantly required and held by a service centre in order to fulfil its functions. Service Directors are responsible for the control of stocks. They must ensure that stocks are appropriately recorded, do not exceed reasonable requirements and that all significant stock is accounted for in the year-end accounts. Stocks should be checked at least once a year, more frequently in the case of expensive items.

**D12. Cash**

D12.1 Cash held on any council premises should be held securely and should not exceed any sums for which the council is insured (guidance on limits is available from the council's insurance team). If this is unavoidable, in exceptional circumstances the Service Director is responsible for making appropriate security arrangements.

D12.2 The type of receptacle used to secure the cash should be appropriate to the amount of cash held and records detailing the amounts should be maintained and stored separately to the cash.

**D13. Asset Disposal and Write Off**

D13.1 The disposal/write off of non-property assets must be authorised as follows:-





Approval level	Value of Disposal
Section 151 Officer	Up to £5k
Section 151 Officer in consultation with the relevant Cabinet Member	5k< to £10k
Cabinet	£10k<

D13.2 Any write off which arises because of theft or fraud must be notified immediately to the Section 151 Officer.

**D14. Treasury Management**

D14.1 The council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.

D14.2 Council is responsible for approving the Treasury Management Policy Statement setting out the matters detailed CIPFA's Code of Practice for Treasury Management in Local Authorities. The policy statement is proposed to Council by the Cabinet. The Section 151 Officer has delegated responsibility for implementing and monitoring the statement.

D14.3 All money in the hands of the council is controlled by the Section 151 Officer as designated for the purposes of Section 151 of the Local Government Act 1972, referred to in the code as the Finance Service Director.

D14.4 The Section 151 Officer is responsible for submitting to Council, for its approval, a proposed treasury management strategy prior to the start of the financial year to which it relates.

D14.5 All executive decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.

D14.6 The Section 151 Officer is responsible for reporting on the activities of the treasury management operation and, on the exercise of the Section 151 Officer's delegated treasury management powers, to the Audit and Standards Committee on a 6-monthly basis during the financial year. In addition, an annual report on the treasury management activity undertaken in the previous financial year will be presented to Audit and Standards Committee and then full Council for approval by 30 September of the following financial year.



**D15. Investments and Borrowings**

D15.1 It is the responsibility of the Section 151 Officer to:-

- a) ensure that all investments of money are made in the name of the council or in the name of nominees approved by Council
- b) ensure that all securities that are the property of the council or its nominees and the title deeds of all property in the council's ownership are held in the custody of the appropriate Service Director
- c) effect all borrowings in the name of the council
- d) act as the council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the council
- e) that the amount of borrowing outstanding at any point in time does not exceed the council's authorised limit for the year.

**D16. Funds Held for Third Parties**

D16.1 It is the responsibility of the Section 151 Officer to:-

- a) arrange for all third party funds to be held, wherever possible, in the name of the Council (e.g. 'Newcastle-under-Lyme Council on behalf of...')
- b) arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Section 151 Officer, and to maintain written records of all transactions
- c) ensure that trust funds are operated within any relevant legislation and the specific requirements of any trust

D16.2 All Officers acting as trustees by virtue of their official position shall deposit trust assets and securities with the Section 151 Officer, unless the Trust Deed provides otherwise.

**D17. Salaries and Wages**

D17.1 Service Directors are responsible, in consultation with the Service Director Strategy, People and Performance, for providing accurate and appropriate information and instructions to enable the calculation and prompt payment of



salaries, expenses and pensions. This includes details of appointments, promotions, re-gradings, resignations, dismissals, retirements and absences from duty. The Section 151 Officer will arrange for payment to the appropriate bodies, of all statutory disbursements, including taxation, and other payroll deductions.

- D17.2 Time sheets and other pay documents which are used to generate payment of salaries, wages or other employee-related expenses must be submitted via authorised electronic inputs. Service Directors are responsible for ensuring that they are certified by an authorised Officer and that they are submitted to the payroll provider in accordance with the specified timetable.
- D17.3 The Service Director Strategy, People and Performance will implement national and local pay agreements as soon as possible after their notification from the appropriate body. Arrangements for funding such awards will be determined each year as part of the budgetary process.

**D18. Early Retirement and Severance**

- D18.1 Where Service Directors wish to bring forward proposals under the council's policies on severance and early retirement, they must be accompanied by a full cost and affordability assessment. The relevant Service Director (or the Chief Executive if the request relates to a Service Director), Section 151 Officer and Monitoring Officer (or their nominated deputy) must approve all requests. Member approval from the Employment Committee and/or Council is required in accordance with the terms of reference for the Employment Committee.
- D18.2 Service Directors will generally be required to meet the costs of severance and early retirement from within their approved budget.

**D19. Travelling and Subsistence**

- D19.1 Service Directors are responsible for instructing the Service Director Strategy, People and Performance and for providing appropriate and accurate information to enable the prompt and accurate payment of travelling, subsistence and other expenses to employees in accordance with the terms of employment agreed by the Council.
- D19.2 Service Directors are responsible for ensuring that Council employees who use their cars for official business are properly insured to indemnify the Council against any loss and for ensuring that payments are only made in respect of journeys that are necessary and actually undertaken.



D19.3 All claims for reimbursement must be made using appropriate authorised electronic inputs.

**D20. Code of Conduct**

D20.1 The Code of Conduct for Employees must be followed by all Officers. It covers standards, disclosure of information, political neutrality, relationships, appointments and other employment matters, outside commitments, personal interests, equality issues, separation of roles during tendering, gifts and hospitality, use of financial resources and sponsorship.

D20.2 Where an outside organisation wishes to sponsor or is asked to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality apply, as detailed in the Code of Conduct for Employees.

**D21. Retention of Records**

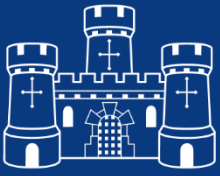
D21.1 The Returning Officer will be responsible for maintaining complete and accurate records and for reconciliation with regard to elections' accounts.

D21.2 The council, in common with other public and private organisations, has certain statutory obligations it has to meet for the retention of its records. It also has to fulfil the requirements of HM Revenue and Customs, other legislative requirements and the external auditors in respect of its financial records.

D21.3 All records held should have an appropriate retention period assigned to them, which meets the needs of the service in question but also the requirements of statutory obligations such as those relating to financial records, limitation of liability, and data protection/freedom of information.

D21.4 The majority of financial records must be kept for 6 years from the end of the tax year to which they relate. However, some records may need to be kept for longer periods e.g. if required to defend future insurance claims. It is possible others can be destroyed within shorter periods.

D21.5 The Council's retention schedules, available on the intranet, set out the length of time for which different types of records should be kept. The schedules are based on legislative requirements and best practice, and as such must be adhered to by Services.



**Part F – Appendices**

**Section F5:- Finance and Contract Procedure Rules**

**F5E:- Financial Systems and Procedures**

**In this Section:-**

E1	Banking Arrangements
E2	Charging
E3	Trading
E4	Charging and Trading Policy
E5	Collection of Income
E6	Bad Debts
E7	General Principles - Ordering and paying for work, goods and services
E8	Payment of Invoices
E9	Non-invoice payments
E10	Credit cards
E12	Payment to Members
E13	Taxation





## **E1. Banking Arrangements**

- E1.1 It is the responsibility of the Section 151 Officer to operate such bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Section 151 Officer or their nominated deputy.
- E1.2 The Section 151 Officer will approve the terms under which banking services, including overdraft facilities, are provided.
- E1.3 All bank accounts must be titled impersonally with the prefix of Newcastle-under-Lyme Borough Council subject to any exceptions agreed by the Section 151 Officer.
- E1.4 Subject to any directions given by the Council, all arrangements with the council's bankers must be made solely through the Section 151 Officer. No bank accounts may be opened or arrangements made with any other bank except with the agreement of the Section 151 Officer.
- E1.5 Bank transfers, CHAPS payments and faster payments from the General Fund and the council's other main drawings accounts must be signed by the Section 151 Officer, or their nominated deputy.
- E1.6 Cheques drawn must bear the signature of the Section 151 Officer or be signed by other Officers authorised to sign by the Section 151 Officer.
- E1.7 No direct debits should be set up unless authorised by the Section 151 Officer.

## **E2. Charging**

- E2.1 This section E2 applies to services that the Council has a power but not an obligation to provide ("discretionary services") and for which it is proposed to make a charge to recover all or part of the costs incurred by the Council in providing the services.
- E2.2 Service Directors are responsible for ensuring that legal advice is sought before introducing charging, in relation to legal powers, authorisation, Member engagement, consultation and related issues. The Service Director Legal and Governance should also be consulted before proceeding with a project that involves a new policy for charging for discretionary services or a variation on previous practice.



### **E3. Trading**

E3.1 This section (E3) applies where the Council proposes to provide services to third parties in the public sector and on a commercial basis.

E3.2 The Council's approach to trading is one which is based on risk but which also empowers services and encourages external income generation. Business case approval from the Corporate Leadership Team must be obtained before trading and the business case will be reviewed by the Corporate Leadership Team not less than annually. Legal advice must be sought in advance in relation to trading with bodies that are not classed as public bodies within the meaning of the Local Authorities (Goods and Services) Act 1940.

### **E4. Charging and Trading Policy**

E4.1 Charges should be reviewed annually to ensure that they are still compliant with all the legal and financial requirements and increased annually where relevant. Charges must be based on the principle of full-cost recovery, unless there is a statutory limit on charges (e.g. planning fees) including all service and corporate overheads.

E4.2 Any in-year variation of charges is to be approved by the relevant Service Director in consultation with the Portfolio Holder.

### **E5. Collection of Income**

E5.1 Officers must comply with arrangements determined by the Section 151 Officer for the safe and efficient collection and recording of all money due to the council.

E5.2 Service Directors are responsible for ensuring that accounts for income due to the council, including grant claims, reimbursements and third party contributions, are raised immediately and accurately in a form approved by the Section 151 Officer. These must include VAT where appropriate.

E5.3 The cost of collection should be taken into account when raising accounts. Service Directors must ensure that the method of collection is appropriate to the value of the transaction. Officers must endeavour to collect payment at point of service/sale wherever possible, especially for low value charges (e.g. under £100).

E5.4 Service Directors are responsible for ensuring that all income received is receipted, where required, recorded correctly against the appropriate budgets, and in the case of cash and cheques, banked with the minimum of delay. The frequency of banking should follow the guidelines provided by the Section 151



Officer to avoid incurring disproportionate banking charges on relatively low value transactions, taking into account local security and insurance cover arrangements.

- E5.5 Where a service wishes to collect income by electronic means (i.e. by debit card, credit card, contactless payments etc.) using an external service provider then prior to putting in place such arrangements the service will need to seek the approval of the Section 151 Officer in respect of the accounting procedures to be put in place for recording the income. In addition, the service will be responsible for ensuring that the external service provider meets the requirements of the Payment Card Industry Data Security Standards (PCI DSS) both when appointed and for all subsequent periods during which their services are being used.
- E5.6 Service Directors are responsible for monitoring income collection and ensuring appropriate recovery action is taken. A summary of the position on the level of outstanding debt and collection issues should be included in outturn reports. Full provision for income outstanding is made in service accounts. However, this should not preclude pursuit of the debt.
- E5.7 Credit notes must be authorised by appropriate Officers nominated by the Section 151 Officer.
- E5.8 Any receipts, tickets or other documents used as receipts should be in a format agreed by the Section 151 Officer.
- E6. Bad Debts**
- E6.1 The council has a corporate debt recovery policy with the guiding principle that customers have a responsibility to pay amounts that have been properly assessed as being due. The council is committed to using the most appropriate and effective recovery methods available to it and does so in accordance with its approved debt policy and debt recovery code of practice.
- E6.2 In certain circumstances, and for justifiable reasons, it will be necessary to classify some debts as irrecoverable and to recommend that they be written off.
- E6.3 The Section 151 Officer (or their nominated deputy) and the Service Director Legal and Governance are authorised to write off any value of debt where there are reasons that prevent the Council from attempting any further recovery action. These reasons are usually as follows:-





- a) the debtor has been declared bankrupt or has entered into insolvency arrangements
- b) the debtor has gone into liquidation
- c) the debtor has had their debt remitted by the Court
- d) the debtor has been granted a Debt Relief Order for the debt
- e) the debtor is deceased and there is evidence of no estate

E6.4 Debts that are being written off for a reason other than those listed in D6.3, must be approved in accordance with the following limits:-

Approval level	Value of Disposal
Section 151 Officer	Up to £5k
Section 151 Officer in consultation with the relevant Cabinet Member	5k< to £10k
Cabinet	£10k<

E6.5 Service Directors are responsible for ensuring that an adequate provision for bad debt is made in the Council's accounts at year-end and that contributions to this provision are included in budgetary projections and outturn reports.

## **E7. General Principles – Ordering and Paying for Goods and Services**

E7.1 Service Directors are responsible for ensuring all required processes are followed to enable the prompt and accurate payment for goods and services provided and for the analysis of expenditure.

E7.2 Except for purchases by credit card, or where an exception has been agreed in accordance with D7.9, all purchases must be supported by an official requisition and purchase order unless previously agreed with the Section 151 Officer. No payment will be made unless there is an official purchase order. All purchases, including by credit card, must have regard to the Finance and Contract Procedure Rules.

E7.3 All requisition and purchase orders must be authorised in accordance with the relevant financial scheme of delegation. All requisition and purchase orders must



be raised within and relate to the current financial year, with the exception of the dual year posting period.

- E7.4 All official purchase orders must include, as a minimum, the order number, the price agreed with the supplier, description of the goods or services to be provided, the delivery address, the address where invoices must be received and the terms and conditions for the goods and services to be provided.
- E7.5 Service Directors must ensure that there is adequate separation of duties in the raising and authorisation of requisitions, authorising of purchase orders, receipt of goods and authorisation of payments to creditors.
- E7.6 Service Directors must ensure robust processes to continually maintain service HR records and schemes of delegation so that electronic workflows associated with core financial systems are not compromised.
- E7.7 All purchasing activity must be carried out in accordance with the council's procurement strategy and advice issued about efficient and effective use of the council's core financial and e-procurement systems and processes. Such processes will include the deployment of credit cards. Invoices received for payment must comply with the council's best practice processes.
- E7.8 Approval of the Section 151 Officer must be sought in advance of entering into any supply agreement with a commercial creditor who has not been set up on the Council's core financial system.
- E7.9 Service Directors must consult the procurement team on appropriate arrangements for purchases of goods and services that cannot be accommodated within standard ordering and payment processes.
- E8. Payment of Invoices**
- E8.1 All invoices must be sent directly by the creditor to the address stated on the official purchase order to enable prompt payment. Unless there are exceptional circumstances, all creditor invoices should be sent to the finance team.
- E8.2 All invoices, as a minimum, must include:-
- a. the official purchase order number
  - b. the name and address of the council (as customer)



- c. an invoice number
- d. the description of the goods or services provided
- e. the quantity delivered
- f. the delivery address
- g. the date of the invoices and/or date of delivery of the goods or services
- h. the address and VAT registration number of the supplier and the net price
- i. the amount of VAT charged at the prevailing rate(s) and the total amount charged
- j. any discount for prompt payment.

E8.3 Invoices received without a valid purchase order number will be returned to the creditor as unauthorised for payment.

E8.4 The Council's standard payment terms are between 10 and 30 days from receipt of a correct invoice by BACS (Bankers Automated Clearing System). Alternative terms may not be negotiated or agreed with suppliers without the explicit approval of the Section 151 Officer. Service Directors are responsible for notifying suppliers of these terms and for ensuring that they are observed by all those involved in the purchasing and payment processing.

E8.5 Payment will only be made for goods and services which have been formally receipted in accordance with receipting procedures set out by the Section 151 Officer.

## **E9. Non-invoice Payments**

E9.1 Where Service Directors wish to initiate a payment to a third party without a supporting invoice, an official request for payment must be submitted to the Section 151 Officer. Non-invoice payments should be requested on an exceptional basis only. Where payments of this type need to be made on a regular basis, Service Directors must consider, in conjunction with the finance team, other alternative options that may be more appropriate.



- E9.2 Any such requests must be authorised by the Section 151 Officer who is responsible for ensuring that all payment details provided are accurate and that supporting records and documentation are available to substantiate the payment, including an official VAT receipt to allow for the reclaim of any VAT element. A pro-forma invoice, a request for payment, a supplier statement and a credit card voucher are NOT official VAT receipts.
- E9.3 Appropriately authorised requests for payment will be processed by the Section 151 Officer and paid by BACS. Cheques will only be used in exceptional cases and by prior agreement.
- E9.4 Payments or reimbursements in respect of salaries and wages, travelling expenses or other employment allowances must be processed through the Payroll system and not treated as a non-invoice payment.

#### **E10. Credit Cards**

- E10.1 The Council operates a scheme that offers Officers the flexibility to procure goods and services with a credit card.
- E10.2 Service Directors are responsible for the appropriate deployment and management of credit cards within their service. Further guidance on the use of credit cards is available on the council's intranet site.
- E10.3 The credit card procedure sets out the terms, processes and procedures under which the scheme operates. It is important that when the card is used, it is used to purchase appropriate items only. The card should be used for low value, low risk purchases and not be used to bypass the Finance and Contract Procedure Rules.
- E10.4 Council credit card spend is under constant scrutiny down to line level detail. Credit cards should be used for official purposes only. All spend will be reviewed internally on a regular basis with a report issued to Corporate Leadership Team every 6 months.

#### **E11. Payments to Members**

- E11.1 The Section 151 Officer is responsible for paying all allowances and duly authorised expenses to Members.

#### **E12. Taxation**

- E12.1 It is the responsibility of the Section 151 Officer to:-



- a) complete all Inland Revenue returns regarding PAYE
- b) submit the Council's VAT return to HMRC each month and complete a monthly return of VAT inputs and outputs to HM Revenue and Customs
- c) provide details to HM Revenue and Customs regarding the Construction Industry Tax Deduction Scheme
- d) maintain up-to-date guidance for Council employees on taxation issues

E12.2 It is the responsibility of Service Directors to:-

- a) ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations
- b) ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements
- c) ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency
- d) follow the guidance on taxation issued by the Section 151 Officer

NEWCASTLE  
UNDER LYME  
BOROUGH COUNCIL



**Part F – Appendices**

**Section F5:- Finance and Contract Procedure Rules**

**F5F:- Contract Procedure Rules**

**In this Section:-**

F1	Basic Principles
F2	Statute
F3	Compliance
F4	Consequence of Breach
F5	Review
F6	Corporate Contracts
F7	Frameworks
F8	In-house Suppliers
F9	Joint Procurement
F10	Authority to Proceed
F11	Insurance
F12	Form of Contract
F13	Bonds and Security
F14	Procurements of Goods, Services or Works below the PCR 2015 Find a Tender Threshold
F15	Procurement of Goods, Services or Works above the PCR 2015 Threshold
F16	Remedies for breach of the Regulations
F17	Timescales
F18	Electronic Tendering
F19	General Rules for Procurements Involving an Element of Competition
F20	Abandonment
F21	Contracts Finder
F22	Signing/Sealing
F23	Waiving the Rules
F24	Payment of Undisputed Invoices
F25	Public Services (Social Value) Act 2012
F26	Additional Matters
F27	Consultancy Procedure

BOROUGH COUNCIL



## **F1. Basic Principles**

F1.1 The aim of the Contract Procedure Rules (“the Rules”) is to:-

- a) ensure compliance with all legal requirements
- b) achieve best value
- c) ensure transparency, openness, non-discrimination and fair competition
- d) demonstrate probity, consistency, accountability and integrity
- e) ensure compliance with the council’s procurement strategy

F1.2 The principles of transparency, non-discrimination and equality are obligations that apply to all procurements and must be complied with at all times.

F1.3 These Rules are supplemented by Procurement Procedure Guidance (“PPG”) as indicated. The PPGs will be updated as required so Officers must check the intranet site for the latest version.

## **F2. Statute**

F2.1 The Council is required by s.135 of the Local Government Act 1972 to make standing orders to ensure competition and regulate the procurement process.

F2.2 The Council must also comply with various other statutes when purchasing goods, works or services, including the Public Contracts Regulations 2015 (PCR 2015).

F2.3 The risks of non-compliance are significant and include awards of damages and contracts being set aside.

## **F3. Compliance**

F3.1 These rules apply to the following undertaken by or on behalf of the council:-

- a) the purchase of all goods, services or works
- b) concessions



c) in circumstances where the Council is procuring goods, works or services on behalf of a collaborative working arrangement

d) in circumstances where the Council is seeking a commercial partner for the purposes of a joint venture

F3.2 All references in these Rules apply equally to a) to d) above as appropriate and as advised by the procurement team. All Officers are responsible for ensuring compliance with these Rules.

F3.3 Third parties acting on behalf of the council must also comply with the Rules. Officers instructing third parties to procure contracts must supply the third party with a copy of the Rules.

F3.4 Officers and third parties must ensure that any conflicts of interest are avoided. Any conflicts of interest must be declared to appropriate line managers as set out in the Officer Code of Conduct. Legal advice must be obtained by Officers where any conflict has potential to impact on contractual relationships.

F3.5 Corruption is a criminal offence. All Officers who let, manage or supervise contracts must act in accordance with the highest standards of propriety and ensure adequate records are kept.

F3.6 Differences in the interpretation of these rules will be resolved by the Service Director Legal and Governance in consultation with the Section 151 Officer.

F3.7 These Rules do not apply to the sale, leasing or purchase of land or any interest in land or any contract of employment or loans or the sale, issue or purchase of any shares or other similar financial asset.

F3.8 These Rules do not apply to an award of a contract in the following circumstances:

a) any contracts between the council and a company that is controlled by it (sometimes referred to as a Teckal company)

b) any contracts between the council and a company that is jointly controlled by the council with another contracting authority; or





- c) any contract which establishes or implements a co-operation between the council and another contracting authority with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common and where implementation of the co-operation is governed solely by considerations relating to the public interest and participating contracting authorities perform on the open market less than 20% of the activities concerned by that co-operation
  - d) any service contract awarded by the council to another contracting authority based on an exclusive right that the latter enjoys pursuant to a law, regulation or published administrative provision which is compatible with the PCR 2015.
- F3.9 For contracts falling within the exceptions at F3.8, written advice from the Service Director Legal and Governance must be obtained to ensure that the specific rules relating to the exceptions apply and to ensure that the award does fall outside of the scope of these Rules.
- F3.10 Additional goods, services or works within the scope of a contract with a company that is wholly or jointly owned by the Council may be permitted but shall comply with the general provisions for authority to vary as found in paragraphs F12.10 to F12.12. It may be possible to increase the scope of a contract falling within F3.8 a) or b) above, but before seeking to do so, the Officer shall prepare a business case demonstrating value for money. Increasing the scope of such a contract shall comply with the general change principles stated in paragraphs F12.7 and F12.8 below, shall be recorded in writing by ODN and shall be authorised by the relevant Service Director and the Service Director Legal and Governance.
- F3.11 In calculating the total value of a contract, the following principles shall apply to determine the total value:
- a) the total amount payable over the term of the contract plus any extension period, net of VAT, including any form of option and any renewal of the contract by all council services utilising the contract
  - b) where the award of a contract involves lots, the total amount payable for all of the lots, net of VAT, including any form of option and any renewal of the contract by all council services utilising the contract



- c) for joint purchasing arrangements, the contract value shall be the aggregate of both parties' spend under the contract.

F3.12 No Officer shall take any steps or omit to do something in order to seek to subdivide procurements or payments to avoid the application of the Rules or any part of the Rules or the PCR 2015.

F3.13 Rules relating to grants and collaborative working arrangements are dealt with in Sections F5G and F5H of the Rules respectively.

#### **F4. Consequence of Breach**

F4.1 Failure to comply with any of these rules may be considered a breach of the Officer Code of Conduct and may result in disciplinary action and legal proceedings against the Officer or third parties concerned. No Officer shall take any steps or omit to do something amounting to a knowing or reckless attempt to avoid the Rules.

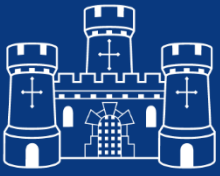
F4.2 Any Officer who fails to follow the Rules may lose the protection of the indemnity given to Officers by the Council and therefore may have personal liability for a contract or any losses.

F4.3 Where it becomes apparent that a service has failed to comply with the Rules the Service Director must immediately notify the Monitoring Officer and Section 151 Officer. The Service Director must complete a Waiver And Record of Non-Adherence (WARN) form outlining the reasons for the non-compliance and the steps taken to prevent a re-occurrence.

F4.4 The content of WARN forms must be approved by the Section 151 Officer and the Monitoring Officer. The Audit and Standards Committee will receive periodic reports on the WARN process and significant single occurrences will be reported to the next available meeting of the Audit and Standards Committee. Service Directors may be required to attend Audit and Standards Committee to explain the circumstance leading to the WARN.

#### **F5. Review**

F5.1 The Service Director Legal and Governance will keep the Rules under review and shall have authority to make minor amendments and updates as required. Any significant changes require the consent of full Council.



F5.2 The Service Director Legal and Governance will report to the Audit and Standards Committee who will make recommendations to Council.

F5.3 The Service Director Legal and Governance and the Section 151 Officer will keep the procurement strategy and procurement procedure guidance under review and have authority to make such amendments and updates as required.

#### **F6. Corporate Contracts**

F6.1 Officers must always check if there is an existing council contract in place before starting a new procurement activity.

F6.2 If a council contract exists, it must be used unless the contract allows for, and the council's procurement team authorise, another course of action.

#### **F7. Frameworks**

F7.1 A framework contract is an agreement with suppliers which establishes the terms governing contracts from which orders for goods, services or works may be placed or 'called off'.

F7.2 Frameworks may only be used when:-

- a) the works, goods or services required are clearly identified within the framework
- b) the framework allows the Council to participate
- c) the framework adheres to the aims of the Rules

F7.3 Officers must ensure that they follow the rules applicable to the framework that set out how individual contracts can be called off. Often this will involve a further procurement activity, referred to as a mini competition. Even where not a requirement, a mini competition should be considered to adhere to the aims of the Rules. Advice must be sought from the procurement team. Advice must be sought from Legal Services in accordance with rule F13 below concerning contract terms, to ensure contract terms are acceptable.

F7.4 Authority to establish a new framework agreement must be evidenced in an Officer Decision Notice (ODN) signed by the Service Director Legal and Governance and Section 151 Officer before procurement activity is started and must be supported by a business case. The business case must clearly state the



maximum value of the framework agreement, the range of contracting authorities able to call-off from it and monitoring arrangements, in particular relating to the total spend under the framework and compliance with call-off procedures.

F7.5 No framework agreement established by the council shall exceed a contract term of 4 years unless exceptional circumstances exist which are substantiated and are related to the subject matter of the framework agreement. If a framework agreement is to exceed a term of 4 years, then the reasons for this must be set out in the ODN to establish a new framework agreement.

F7.6 No contracting authority shall be entitled to call off from a framework agreement established by the council unless the contracting authority has signed an access agreement with the council. The Service Director Legal and Governance must advise on the most appropriate form of access agreement.

**F8. In House Suppliers**

F8.1 Various services may be available internally from within the council or by any council controlled companies that the council has established. The procurement team can provide advice on utilising these services.

**F9. Joint Procurement**

F9.1 It is best practice to consider working with others either internally or externally where there may be benefits to a joint procurement with other service areas or public bodies to achieve economies of scale and prevent duplication.

F9.2 Advice from the Service Director Legal and Governance must be sought as to the most appropriate form of agreement for joint procurement activity and the apportionment of risk between the parties.

F9.3 If the Council is responsible for any procurement under such joint arrangements, which result in the Council entering into a contract with a supplier, the Rules must be followed.

**F10. Authority to Proceed**

F10.1 Before beginning a procurement, the service Officer is responsible for ensuring that the appropriate authority and budget is in place. The form of the authority will depend on the value, strategic importance of the proposed contract, budget implications and risks.



F10.2 Member authority to commence a procurement process will not normally be required, even where the decision to ultimately let a contract will be a Key Decision. However, Service Directors should ensure that there is sufficient budget in place to undertake the procurement exercise and let a contract and that doing so will not be contrary to the budget and policy framework.

F10.3 It is prudent to ensure that relevant Members are briefed and content with the proposal to procure, particularly if the ultimate letting of a contract will amount to a Key Decision. This is to avoid wasted resource in running a procurement process in circumstances where Cabinet might ultimately decline to award a contract.

F10.4 Notwithstanding the content of rule F10.3 above, Officers must consider whether the decision to procure is in itself a Key Decision because of the likely cost of the procurement process. If so, a Cabinet decision will be required prior to commencing procurement and notice of the same will need to be given in the Forward Plan.

F10.5 Authority to proceed must be evidenced in writing and include confirmation from the budget holder that budget is available to procure and ultimately let a contract. Acceptable forms of authority include:-

- a) minutes of the Cabinet
- b) an Officer Decision Notice
- c) a relevant extract from the appropriate scheme of delegation

## **F11. Insurance**

F11.1 Officers are responsible for checking that all chosen contractors provide written evidence of adequate insurance to cover public liability, employers' liability and if necessary professional indemnity for the full duration of the contract.

F11.2 Indemnity levels must reflect the risk to the Council which typically will be for each and every contract:-

- a) £5 million for public liability
- b) £10 million for employers liability



c) £2 million for professional indemnity

F11.3 The levels required may be reduced following the written consent of the Service Director Legal and Governance either as a one off in respect of a particular contract or, where other arrangements have been agreed, for particular types of contract. The service Officer shall consider insurance risks and issues before commencing a procurement and shall seek any necessary approvals prior to issue of the invitation to tender.

F11.4 In some circumstances, it may be necessary to obtain specialist insurance. Service Officers shall be responsible for making enquiries with Insurance Team.

**F12. Form of Contract**

F12.1 The form of contract must be identified in advance. Every request for a quote ("RFQ") or invitation to tender ("ITT") must be accompanied by the appropriate form of contract. The Council's standard form of contract must be used. In exceptional cases, an alternative form of contract may be used such as the supplier's form of contract or a varied form of the council's standard contract, but with the prior written agreement of the Service Director Legal and Governance.

F12.2 F12.1 does not apply to call-off contracts from frameworks. In addition, in appropriate circumstances, industry standards such as PSPC, NEC, JCT, JClI, ACE, RIBA & ICE may be used with the Council's additional standard clauses covering freedom of information and other local government specific issues. These additional clauses are available from Legal Services. Officers must ensure that the published RFQ/ITT includes the correct form of contract or refers to the correct industry standard.

F12.3 Letters of Intent will only be used in exceptional circumstances and with the written consent of the Service Director Legal and Governance.

F12.4 Advice need not be taken from legal services on the final draft of a contract with a value of up to £50,000 where the council's standard form of contract has been used with no amendments, additions or deletions to the council's standard clauses.

F12.5 The final draft of all contracts over £50,000, contracts that must be executed as a deed (irrespective of value) or any other contract (whether specifically or by type) stipulated by the Service Director Legal and Governance must be approved by



legal services (or in some other manner agreed by the Service Director Legal and Governance) before they are executed.

- F12.6 When selecting the form of contract, be sure to consider whether it will need to be executed “under hand” (signed) or as a deed. See rule F22 below.
- F12.7 A change to a contract, such as an extension of the contract period (in addition to any extension period included in the original contract), or a change to any of the terms or adding in scope to the goods, works or services, is known as a variation to the contract.
- F12.8 When drafting the specification for the ITT, it is good practice to provide for a variation in clear, precise and unequivocal words that state the scope of the variation(s) permitted and the conditions under which the variation(s) shall apply, provided that such variation(s) do not alter the overall nature of the contract. For example, the ITT may state additional goods, works or services that may be included in the contract in the future, or an extension in time of the contract period.
- F12.9 In relation to PCR 2015 procurements, variations to contracts shall only be permitted where the variation falls into one of the categories listed in Regulation 72 as amended from time to time. Variations to such contracts shall be recorded in writing by Officer Decision Notice and shall be authorised by the Service Director and the Service Director Legal and Governance. The procurement team shall ensure that appropriate notices are issued to comply with Regulation 72 requirements.
- F12.10 For non PCR 2015 procurements, Officers shall not enter into variations which would extend the contract beyond the original scope or which would increase the contract price by more than an additional 20% of the original contract price, without the approval of the Section 151 Officer and Service Director Legal and Governance. Such approval shall be evidenced by ODN signed by the Section 151 Officer and Service Director Legal and Governance. A business case will be required to obtain this approval. The procurement team will keep a record of such approvals. Any variation pursuant to this paragraph 12.7 shall comply with the principles in paragraphs F12.7 and F12.8 above.
- F12.11 In all cases, any variation shall be agreed between the parties to the contract and as a minimum shall be recorded in writing and signed by the parties.



- F12.12 In no circumstances shall a variation be made to a contract which has ended or which has been terminated. If there is no provision within the contract terms for a variation of the type required, legal advice shall be sought.
- F12.13 Contracts must be effectively monitored throughout the period of the contract by the relevant contract manager and appropriate records kept in accordance with the council's document retention scheme.
- F12.14 Contracts shall not permit payment in advance except in respect of software licences, hardware or software support, HP leases, deposits, warranties or new or additional water, electricity and gas connections instigated by a new build or refurbishment project, unless the Service Director and Section 151 Officer agree otherwise, such agreement to be recorded in writing.
- F12.15 Part payments may be made during the contract period after the completion of a stage of work provided that the services, goods or works have been completed or delivered. The contract shall include a clear payment schedule which identifies milestones and payment dates or shall identify the events and performance indicators which will trigger a part payment. No part payment shall be made unless the contract precisely sets out the payment schedule and the circumstances in which the part payment shall be made.
- F12.16 Payments made under a contract shall be made in accordance with the relevant scheme of delegation and these Rules.
- F13. Bonds and Security**
- F13.1 A performance bond or adequate security will be required where:-
- a) the nature and length of the contract is such that the risk of failure is sufficiently high
  - b) the estimated cost of re-establishing a service if the contract fails is relatively high
  - c) the financial and technical standing of the contractor is such that the risk of the failure is sufficiently high.

- F13.2 Contracts with a value of up to £250,000 and which appropriately mitigate risk through staged payments or retentions will not typically require a bond or other





security (though security may still be sought if any of F13.1 a) to c) apply). In all cases of contracts with a value of more than £250,000, a decision of the Section 151 Officer should be sought.

F13.3 The amount of the bond will be 10% of the total contract value unless otherwise agreed by the Section 151 Officer.

F13.4 Where the contractor is a limited company which is part of a larger group, the ultimate holding company may be required to provide a parent company indemnity or guarantee in addition to or instead of a performance bond or other security.

**F14. Procurements of Goods, Services or Works below the Public Contracts Regulations 2015 (“PCR2015”) Find a Tender Thresholds**

F14.1 Where the estimated costs of any goods, services or works is less than the PCR 2015 thresholds, quotes shall be invited as outlined below:-

Value	Procedure
Under £5k	Awarding to a contractor from the council's approved list of contractors on a rotational basis where applicable. In other cases, direct awards are permissible but there is a requirement to be able to demonstrate compliance with the principles of Rule F1.1 across a period of time/range of awards.
£5k< to £25k	At least two written quotations
£25k< to the PCR2015 Thresholds	A minimum of three quotations sought through the appropriate e-tendering portal.

F14.2 The PCR 2015 threshold is reviewed biennially, and advice must be taken from the procurement team as to the threshold at the time of planning a procurement.

F14.3 The procedure for under threshold procurements is explained in PPGs.

**F15. Procurement of Goods, Services or Works above the PCR 2015 Threshold**

F15.1 The PCR 2015 apply to above threshold contracts for the supply of goods, services and works. There is a separate procedure (known as the 'light touch



regime') for social care and health care contracts and other contracts specified in Schedule 3 of the Regulations as explained in PPGs.

F15.2 There are six types of procurement routes available for contracts exceeding the PCR 2015 threshold:-

- a) Open Procedure
- b) Restricted Procedure (including through the use of a dynamic purchasing system)
- c) Competitive Procedure with Negotiation
- d) Competitive Dialogue
- e) Innovation Partnerships and
- f) Call Off from a Framework Agreement.

F15.3 There is a separate procedure for some types of procurements, known as the light touch regime, which is explained in the PPGs.

F15.4 Advice shall be taken from the procurement team as to the most appropriate type of procurement procedure. PPGs contain a general guide to the types of procurement procedures.

F15.5 The procedures to be followed for each type of procurement at F15.2 (a) to (f) above are set out in the 2015 regulations and cannot be varied under any circumstances. PPG5 explains the procedure for the Open Procedure. PPGs explain the procedure for the Restricted Procedure. The types of procurement at F15.2 (c), (d) and (e) are not to be used unless the appropriate procedures apply. There is a separate procedure for social care and health care procurements and other contracts specified in Schedule 3 of the Regulations. Call-offs under a framework agreement shall follow the procedure set down by the framework authority.

F15.6 Before commencing any above PCR 2015 threshold procurement, advice must be taken from the procurement team.



**F16. Remedies for Breach of the Regulations**

F16.1 The consequences for breaches of the Regulations for over threshold procurement are significant and include:-

- a) setting aside of contracts following a declaration of ineffectiveness
- b) financial penalties
- c) awards of damages and costs to successful challengers
- d) compensation to the contractor for repudiatory breach of contract
- e) costs of delays in provision of the required goods/services/works
- f) costs of further procurement.

F16.2 Officer compliance with these Rules and the Regulations is therefore essential.

**F17. Timescales**

F17.1 Procurements over threshold can take a minimum of 4 months and sometimes over 18 months to complete depending on complexity.

F17.2 An accelerated procedure may be available for use in urgent circumstances after consultation with the Service Director Legal and Governance. The Service Director shall certify the urgency making it impractical to comply with the stipulated timescales.

**F18. Electronic Tendering**

F18.1 The Council utilises an e-procurement software solution for competitive procurement activities of £25,000 and over.

F18.2 Officers must use the e-procurement solution for all procurements with a value of £25,000 and over unless the Section 151 Officer has provided written consent for the exception or unless the procurement is being conducted through a framework that has its own e-procurement software, when it is permissible to use the e-procurement facility provided by the framework provider.



**F19. General Rules for Procurements Involving an Element of Competition**

F19.1 For procurements of £25,000 and over, Service Officers must contact the procurement team before the commencement of procurement activities to agree the appropriate process that will ensure value for money and adequate competition.

F19.2 Service Officers are responsible for drafting a clear and robust specification. The specification must set out exactly what the Council requires and timescales for delivery.

F19.3 Where a variant is permitted, the service Officer must set out the minimum requirement(s) of the variant. Lots must be considered where appropriate and the procurement team will advise on the best use of lots.

F19.4 The tender documentation must as a minimum include:-

- a) the time, date and internet address for submission of tenders
- b) information the supplier must provide
- c) timescales for the project
- d) the criteria for award
- e) the contract documents
- f) method for dealing with queries during the tender period

F19.5 The tender documentation must state that the council is not bound to accept the lowest or any tender.

F19.6 The tender documentation must set out how errors in tenders will be dealt with using one of the following two ways:-

- a) the tenderer shall be given details of the error(s) found during the evaluation and shall be given the opportunity to confirm without amendment or withdraw the tender; or



- b) amending the tender to correct genuine error(s) provided that in this case, apart from these genuine errors, no other adjustment, revision or qualification is permitted.

F19.7 The ITT must state that by submitting a tender the tenderer agrees to the council's contract terms. There shall be no discussion or negotiation about the contract terms prior to the tender close date. Once an award has been made, modifications may exceptionally be necessary, for example to address an error, where an issue with consistency with the specification is identified or exceptionally where a condition is at odds with the approach in that sector of the market. Legal advice shall always be obtained to ensure that any modification is appropriately drafted. Such modifications shall comply with the general principles listed below:-

- a) the modifications shall not render the contract materially different from the one forming part of the ITT
- b) had the modifications been included originally with the ITT, the modification would not have allowed for the admission of bidders other than those initially selected OR for the acceptance of a tender other than that originally accepted OR have attracted additional bidders
- c) the modifications do not change the economic balance of the contract in favour of the contractor in a way which was not provided for in the original contract;
- d) The modification does not extend the scope of the contract beyond PCR 2015 prescribed parameters.

F19.8 Any modifications which do not fall within at least one of the conditions listed in (a) to (d) above shall require approval by ODN from the Service Director Legal and Governance. Advice shall always be taken from the Service Director Legal and Governance before agreeing to any modifications of the Council's contract terms.

F19.9 Evaluation criteria are the basis on which scores are given to assess responses. Tender evaluation criteria are assessed on:-

- a) price or quality only
- b) MEAT (Most Economically Advantageous Tender) based on a consideration of quality and cost



- c) Life cycle costing
- d) Fixed price with quality criterion only
- e) Community Wealth Building
- f) Social Value

F19.10 Guidance on evaluation criteria is contained in the PPGs.

F19.11 A record of all tenders received shall be kept on the e-procurement solution and shall include:-

- a) service name
- b) bidder's names
- c) tender value
- d) date
- e) reasons for any disqualifications for late tenders and
- f) name of those who were invited but did not submit a tender

F19.12 Any request for an extension to a tender period must be made no later than the period stated in the ITT and in any event before the tender close date and shall be agreed by the Service Director Legal and Governance. If an extended date is permitted all tenderers must be advised.

F19.13 Clear written records must be kept of the assessment process. For all PCR 2015 procurements, a report must be written and retained by the service until the expiry of the contract term. The procurement team shall advise what must be recorded in the procurement report.

F19.14 Negotiation or discussion is generally not permitted except for certain types of procedures that permit negotiation or where it clearly states in the ITT that negotiation or discussion is part of the tender process. If used, negotiations or



discussions must be recorded either contemporaneously or as soon as possible after the negotiation or discussion has concluded.

F19.15 A contract procured under the Regulations cannot be entered into or a framework agreement concluded until the end of the standstill period. The standstill period is 10 calendar days from issue of the unsuccessful letters and intention to award letter. The period will be extended to the next working day if the standstill period ends on a non-working day. The standstill period ends at midnight.

F19.16 Where timescales allow, for non PCR 2015 contracts, a voluntary standstill period of 10 days between decision to award the contract and actual contract award can be implemented. Advice should be taken from the Service Director Legal and Governance on whether or not to apply a voluntary standstill period.

## **F20. Abandonment**

F20.1 If less than three tenders are received, consideration should be given as to whether continuing with the process will achieve a competitive price, value for money and quality of services. A further advertisement may be required.

F20.2 Before abandonment or recommencement of an above threshold procurement, there shall be consultation with the Service Director Legal and Governance to ensure appropriate procedure and risk management.

## **F21. Contracts Finder**

F21.1 All relevant procurement opportunities which involve an element of competition over £25,000 shall be advertised on "Contracts Finder". An element of competition means where the procurement opportunity is put into the public domain for the attention of suppliers generally. It does not include situations where a tender or quote is sought from a limited number of suppliers such as a call-off from a framework agreement or seeking quotes/tenders from selected suppliers.

F21.2 An award of a relevant contract shall be notified on "Contracts Finder". PPGs explain when an opportunity or award has to be advertised on "Contracts Finder".

## **F22. Signing and Sealing**

F22.1 Contracts with a value of up to £50,000 that are not required to be executed as a deed may be signed by the Service Director in accordance with a service scheme of delegation.



F22.2 Unless otherwise agreed in writing by the Service Director Legal and Governance, contracts with a value of more than £50,000 and contracts that are required to be executed as a deed (irrespective of value) must be executed by:-

- a) The Service Director Legal and Governance or the Section 151 Officer or the Chief Executive; and
- b) An authorised Member signatory

F22.3 Contracts will be executed “under hand” (signed) unless required in law or by the Service Director Legal and Governance to be executed as a deed. Contracts required to be executed as a deed in law typically include:-

- a) Transfers of land or interests in land
- b) Some Leases
- c) Mortgages and Charges
- d) Certain documents in respect of Trusts
- e) Agreements made without consideration
- f) Gifts or tangible goods without delivery
- g) A release or variation of certain rights

F22.4 In addition to legal requirements to execute some contracts as a deed, there can be advantages to executing other types of contracts as deeds. This will typically occur in respect of high value/risk transactions and/or where contractual relations will be continuing for some time. In these situations, the council may want to execute the contract as a deed to:-

- a) be able to take action for breach of contract over a longer period
- b) prevent the contracting party (or their successor in title) calling into question, at a later date, the validity or effectiveness of the contract or the accuracy of statement of fact made in the contract





F22.5 Advice should be taken from Legal Services on execution requirements where there is any doubt.

F22.6 Contracts must be executed and completed before work is started to ensure incorporation of terms. Making payments before the contract is sealed or signed may be a breach of the Rules and may result in disciplinary action.

### **F23. Waiving the Rules**

F23.1 Where an Officer intends to seek an exemption to these Rules on the grounds set out below the Officer shall obtain the written consent of the Service Director Legal and Governance and the Section 151 Officer by way of a Waiver And Record of Non-Adherence (WARN) form.

F23.2 The Audit and Standards Committee will receive periodic reports on the WARN process and significant single occurrences will be reported to the next available meeting of the Audit and Standards Committee. Service Directors may be required to attend Audit and Standards Committee to explain the circumstance leading to the WARN.

F23.3 Other than in exceptional circumstances, there shall be no retrospective approval of an exemption and the matter will have to be recorded and reported as a Non-adherence instead, in accordance with rules F4.3 and F4.4 above.

F23.4 Requests to waive these rules for under PCR 2015 threshold contracts may be authorised in the following circumstances, following a robust audit:

- a) goods, services or execution of works are obtainable only from one source or contractor and there is no reasonably satisfactory alternative
- b) compatibility issues such that procurement from another source would be uneconomic given the investment in previous infrastructure;
- c) in cases of genuine urgency or emergency (which shall not include urgency or emergency arising on account of a failure to comply with the Rules when there has been ample opportunity to do so) where it can be clearly demonstrated that the time required to comply with the Rules would have a significant adverse impact on the council's interests



- d) where a recent, directly analogous and diligently undertaken compliant procurement process evidences a lack of genuine competition
- e) Other such circumstances as shall be agreed by the Service Director Legal and Governance and the Section 151 Officer

F23.5 Where it has not been possible to advertise through Find a Tender and publish a contract award notice, the Council may, under Regulation 99(3) of the Public Contracts Regulations 2015, publish a Voluntary Transparency Notice, justifying the decision to award without prior publication of a contract notice.

F23.6 Authority to publish a Voluntary Transparency Notice must be documented in an ODN signed by the Service Director Legal and Governance, Section 151 Officer and Service Director providing full justification for the publication and future procurement plans.

F23.7 All WARNS signed pursuant to E23.1 shall be held by Legal Services and shall be available for inspection as required.

#### **F24. Payment of Undisputed Invoices**

F24.1 The Council has a duty under the PCR 2015 for every public contract (whether it is above or below the PCR 2015 threshold) to pay undisputed invoices within 30 days. PPGs explain the requirements for payment of undisputed invoices.

#### **F25. Public Services (Social Value) Act 2021**

F25.1 The Council must consider the social value of its approach to procurement and whether social or environmental criteria or conditions may be appropriate and permissible. PPGs explain the requirements for social value.

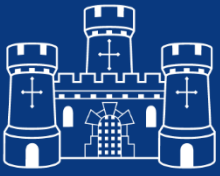
#### **F26. Additional Matters**

F26.1 PPGs set out additional matters which might be relevant to a procurement and Officers are advised to refer to PPGs before commencing a procurement.

#### **F27. Consultancy Procedure**

F27.1 Officers shall follow the separate consultancy procedure in addition to the Rules.

F27.2 External consultants or advisors may only be appointed to provide professional or consulting services if such services are not available within the council or if the Officers providing them do not have the resources to meet what is required. Where



such services are available in-house, the appointing Officer must consult with the Service Director Strategy, People and Performance and the Section 151 Officer before taking any decision to make an external appointment.

- F27.3 Consideration should always be given to using approved frameworks, examples include YPO (Yorkshire Purchasing Organisation), ESPO (Eastern Shires Purchasing Organisation, CCS (Crown Commercial Service) and Homes England.
- F27.4 External consultants and technical Officers engaged to supervise contracts must follow these Rules as applicable and their contracts for services must state this requirement.
- F27.5 Procurement plans and/or tenders prepared by external consultants on behalf of the Council must be referred to the procurement team for approval and advice.
- F27.6 All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide immediately any or all documents and records maintained by them relating to the services provided at the request of the appointing Officer, and lodge all such documents and records with the appropriate Officer at the end of the contract.
- F27.7 The appointing Officer shall ensure that any consultant working for the Council has appropriate indemnity insurance.
- F27.8 Any consultant used by the council shall be appointed in accordance with these Rules. Where the council uses consultants to act on its behalf in relation to any procurement, then the appointing Officer shall ensure that the consultants carry out any procurement in accordance with these Rules and using the council's standard terms and conditions of contract in any procurement that the consultant carries out. No consultant shall make any decision on whether to award a contract or whom a contract should be awarded to. The appointing Officer shall ensure that the consultant's performance is monitored.
- F27.9 Where the engagement of a consultant is required to support a procurement process or related project, the consultant should sign an appropriately drafted confidentiality agreement.



**Part F – Appendices**

**Section F5:- Finance and Contract Procedure Rules**

**F5G:- Collaborative Working and ASDVs**

**In this Section:-**

G1	General
G2	Written Agreement
G3	Accountable Body
G4	Collaborative Working Approval Process
G5	ASDV Background
G6	Approval to set up an Alternative Service Delivery Vehicle
G7	Operational Governance
G8	ASDV Reporting
G9	Directors of ASDVs



## **G1. General**

- G1.1 The term “collaborative working” covers a wide array of joint working arrangements. For the purposes of this section, the term “collaborative working” means working with one or more third parties collectively to achieve a shared objective.
- G1.2 The council’s contribution to collaborative working may be capital, revenue or contributions in kind such as staff time, and contributions of any kind fall within this section.
- G1.3 This section does not cover public-to-public or public to private contractual arrangements. This is covered under section F of the Finance and Contract Procedure Rules.
- G1.4 In any circumstance where the council undertakes procurement in respect of collaborative working, the council’s Finance and Contract Procedure Rules shall apply.
- G1.5 The council will maintain a register of significant partnerships and all significant partnerships will be subject to an annual review that will be reported to Audit and Standards Committee.
- G1.6 As a measure of best practice, all collaboration agreements should be subject to a complete review at least every 4 years.
- G1.7 Any collaboration which involves the creation of or participation in a separate legal entity such as a limited company, trust or charity, must be set up and approved in accordance with the governance arrangements as set out below.

## **G2. Written Agreement**

- G2.1 Collaborative working arrangements must be recorded in writing, the content and format of which must be approved by the Service Director Legal and Governance.
- G2.2 Any collaborative working involving the commitment of significant council resources (be they finance, staff, land, buildings or equipment), or where the council acts as an accountable body, must have a formal agreement in place approved by the Service Director Legal and Governance



### **G3. Accountable Body**

G3.1 Any collaborative working in which the council is to act as Accountable/Responsible Body must be approved by the relevant Service Director and the Section 151 Officer.

G3.2 Where the council does act as the accountable body, the full cost of this service must be charged to the collaborative working arrangement (including a fair share of corporate overheads or equivalent in kind contribution)

### **G4. Collaborative Working Approval Process**

G4.1 The approval process for participation in a collaborative working arrangement is based on:-

- a) compliance with corporate outcomes
- b) the financial contribution of the council

G4.2 If the council's financial contribution has not already been included in the approved budget, further approval will be required. The level of approval required will depend on both the amount, and whether the funding is to come from existing budgets or from reserves. These approval limits are set out in Section F5B (Rule B8.1) of the Finance and Contract Procedure Rules. The financial contribution of the Council should be assessed over the lifetime of the collaborative working arrangement and shall include the all staffing/resource costs as well as any financial contributions provided.

G4.3 Each Service Director is responsible for preparing regular reports for the Cabinet Member outlining the key outcome and achievements of each collaborative working arrangement. The report should also review the affordability and continued relevance of the arrangement to the Council's corporate objectives.

### **G5. ASDV Background**

G5.1 The term Alternative Service Delivery Vehicle (ASDV) refers to a range of different organisations which:-

- a) have been set up by the council, either alone or with a partner (public or private sector)
- b) are legally separate from the council



c) are operationally independent of the council, but the council has retained significant control over key strategic issues.

G5.2 ASDVs can take a number of different legal forms. The main types include company limited by shares, company limited by guarantee and Trusts.

G5.3 Each ASDV will have its own governance arrangements, business plans, policies and procedures for managing its business, which can be different to those of the council.

G5.4 In most cases, the council will have at least three distinct relationships with its ASDV. Each of these relationships is subject to different considerations, rules and processes. It is essential when configuring and operating an ASDV that a careful approach is taken to delineating roles and responsibilities to put in place operational safeguards to deal with conflicts that might arise. These conflicts can arise between these distinct relationships or roles, or more generally, where an Officers or Members has a role in respect of the ASDV and in respect of the Council. These roles, relationships and potential conflicts must be kept under constant review.

- a) As an ASDV director. Directors are responsible for the operational leadership and direction of the ASDV and are ultimately accountable to the ASDVs shareholders. Their primary duty is to promote the interests of the ASDV and conflicts can arise where policy or political imperatives do not align with the best interests of the ASDV, and ASDV directors have a lead role in setting or delivering policy/political imperatives and in ensuring the success of the ASDV.
- b) As a shareholder/owner of the business. The shareholder's primary role is to hold the ASDV directors to account for their leadership, direction and success of the ASDV. Conflicts can arise where policy or political imperatives do not align with the best interests of the ASDV and shareholders have a lead role in setting or delivering policy/political imperatives and in ensuring the success of the company.
- c) As a customer of the ASDV or as a supplier of goods or services to the ASDV. Customers commissioning services or acquiring goods from the ASDV or supplying goods or services to the ASDV are primarily concerned with achieving best value for the council. Conflicts can arise where a commissioning/supplying decision taker also has responsibilities to the company as a director or



shareholder. There is an inherent conflict in seeking to achieve best value for the Council and promoting the interests of the ASDV.

## **G6. Approval to set up an ASDV**

G6.1 Setting up a new ASDV is likely to be an expensive, complex and time-consuming process requiring significant input from a number of Council services and external specialists. To ensure consistency with corporate priorities and minimise the risk of abortive costs, the set up needs to be in 3 distinct stages:-

- a) approval by the Corporate Leadership Team to develop an Outline Business Case to establish the new ASDV
- b) Production of an outline Business Case (OBC) to support the development of a full business case
- c) Production of a Full Business Case (FBC).

G6.2 Cabinet approval will be required at OBC and FBC stage. Depending on the structure of the proposed ASDV specific Cabinet approval may also be required for:-

- a) Council pension guarantees
- b) Provision of working capital loans
- c) The initial/Year 1 Annual Business Plan (ABP)
- d) Key Reserved Matters.

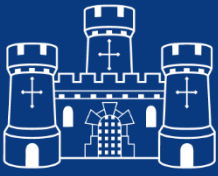
G6.3 Approval of any working capital loans or pension guarantees shall be undertaken in accordance with the thresholds set out under rule B8.1 above.

G6.4 Scrutiny Committee consideration at FBC stage can also be beneficial

## **G7. Operational Governance**

G7.1 A Member or joint Officer/Member shareholder committee is typically a best practice approach to taking responsible for making decisions that relate to the Council's role as shareholder or owner of the ASDV. Those sitting on a shareholder committee must have sufficient knowledge and experience to be able to hold ASDV Directors





to account for performance, and to robustly interrogate and challenge business plans and performance data.

- G7.2 The exact process and range of shareholder decisions will be different for each ASDV. However, as a minimum, a formal Council (as shareholder) decision will be required to approve the annual business plan and any changes to the legal structure of the company (e.g. changes in shares). Any changes to HR and or remuneration policies will be approved by reference to the likely financial impact in line with the thresholds set out in rule B8.1 above.
- G7.3 Council approval to change the scope/range of services should initially be obtained from the Corporate Leadership Team. Further approval will depend on the size and nature of services covered by the proposed change and therefore advice should be obtained from the Service Director Legal and Governance.
- G7.4 Company approval will depend on each company's own governance processes.
- G7.5 If the ASDVs supplies goods or services to the Council, then generally the standard FCPRs applicable to any third party supplier should be applied to decisions affecting the ASDV in its role as a supplier. The primary exception is ASDVs that are Teckal exempt. In these cases, the Council can award contracts to the ASDV without a competitive procurement process. The award of a contract under a Teckal exemption should still be subject to a business case assessment demonstrating value for money is being achieved.
- G7.6 Each ASDV will have its own equivalent of the Councils FCPRs. Changes to these documents will generally not require any approval from the Council.
- G7.7 The ability of the Council to wind-up or liquidate an ASDV will be set out in the Shareholder Agreement or Articles of Association of each ASDV. Putting an ASDV into liquidation is likely to be a significant step with major HR, legal, financial and service delivery implications. It is therefore likely that such a decision will require Cabinet approval.

## **G8. Reporting**

- G8.1 Each ASDV will be required to provide regular shareholder financial and performance reports to the Council. The form and timing of reports will be defined by the Section 151 Officer and Service Director Legal and Governance.



G8.2 If the ASDV supplies services to the Council, it will also have to provide performance reports in accordance with its contractual obligations. These contractual performance reports will be incorporated as part of the standard Officer/Member process used for all suppliers.

G8.3 Regular monitoring reports should be taken to the appropriate Scrutiny Committee.

### **G9. Directors of ASDVs**

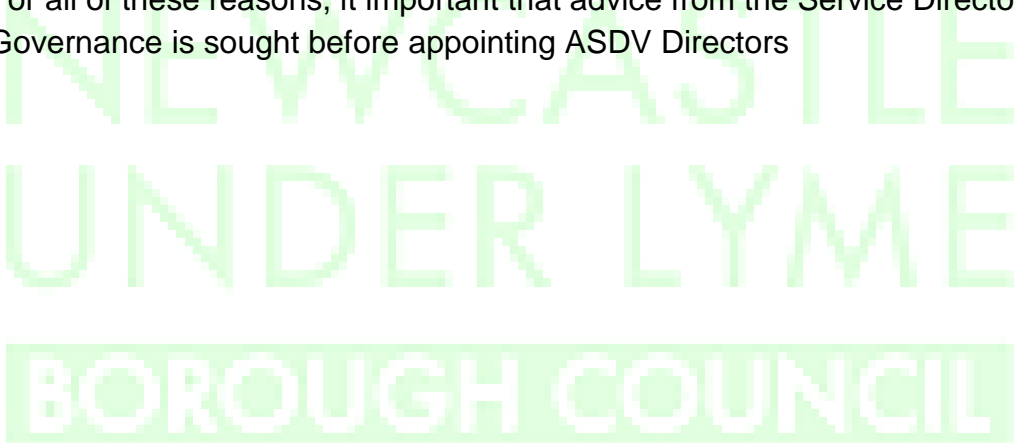
G9.1 Both Members and Officers may act as a director of one or more of the Councils ASDVs, however many councils have elected not to have Member directors (or for Members to be ex-officio Directors only) to avoid the potential conflict of interest issues described above (political imperative Vs best interests of the ASDV).

G9.2 The role of Director includes some significant personal responsibilities and liabilities, and a significant time commitment to the ASDV and in maintaining the necessary skills to be an effective Director.

G9.3 A Director's primary duty is owed to the ASDV. Directors should be appointed solely based on their skills, knowledge and expertise after undertaking skills matrix analysis to match candidate Directors to the needs of the ASDV from time to time.

G9.4 Regular, robust performance assessment and training of Directors is essential to the success of an ASDV.

G9.5 For all of these reasons, it important that advice from the Service Director Legal and Governance is sought before appointing ASDV Directors





**Part F – Appendices**

**Section F5:- Finance and Contract Procedure Rules**

**F5H:- Glossary**

Appropriation	Amounts transferred between the Revenue account and revenue or capital reserves
Bad debt	A debt owed to the Council where the cash will not be collected and therefore the debt needs to be written off. See also provision for bad debts below.
Balances (Revenue Account)	The accumulated surplus of income over expenditure. Members may agree that Balances be used to reduce future Council Tax precepts although a minimum level, consistent with prudence and best practice will be maintained. Amounts in excess of that required for day-to-day cash management and to finance working capital can be invested to generate interest income to the Authority.
Capital Approval	The capital programme provision as amended by any supplementary estimates or virements.
Capital Expenditure	Expenditure on the purchase, construction or replacement of capital (fixed) assets or expenditure that adds to the life or value of an existing fixed asset.
Capital Programme	The Authority's plan of capital projects and spending over future years. Included in this category are the purchase of land and buildings, the erection of new buildings and works, Highway Improvement schemes and design fees, and the acquisition of vehicles and major items of equipment.
Capital Project / Scheme	These terms mean the same thing and are used interchangeably within these Rules. A project/scheme may be separately identified in the capital programme or be an item within a themed allocation (for example ICT or building maintenance).

BOROUGH COUNCIL



Capital Receipts	Income received from the sale of capital assets and available, subject to rules laid down by the Government, to finance new capital expenditure or to repay debt.
Carry Forward	An increase or reduction in a Service's new financial year budget, stemming from either an under or overspend in the previous year. All carry forwards (except for Schools) need the approval of the Cabinet upon the presentation of a business case.
Commitment	The value of any order or contract placed, prior to payment for goods / services having been made.
Contingencies	Sums set aside as part of the Councils budgets to meet either: (a) the potential costs of activities expected to occur during the year over and above those costs included in Service budgets (pay and price contingency); or (b) items that are difficult to predict in terms of financial impact or timing (contingency for uncertain items).
Council Fund	The Council's main revenue fund to which all revenue receipts are credited, and from which revenue liabilities are discharged. The movement on the fund in the year represents the excess of income over expenditure within the Consolidated Revenue Account. The level of balances held is based on the Council's assessment of the level of risk and uncertainty and the potential call on such reserves. Also known as the General Fund Reserve.
Corporate Leadership Team	The Corporate Leadership Team is the Chief Executive, Deputy Chief Executive, Section 151 Officer, Monitoring Officer and Service Directors,
Debt Write-Off	Realising the cost of debt that is considered to be "bad" (unrecoverable) by writing it off against the revenue account or bad debt provision.
Earmarked Reserves	Reserves that can only be used for a specific use or purpose.



Financial Scheme of Delegation	A table setting out the financial limits within which Officers are authorised to incur expenditure. The table is held and maintained by the Section 151 Officer
Financial Year	The Council's accounting period covers the 12 months from April 1 to March 31.
Find a Tender Service	Find a Tender Service (FTS) is the home of higher-value, public contract opportunities (tenders) within the UK. The Find a Tender Service can be used by both Public Buyers and Suppliers. For Public Buyers, the use of the portal complies with Public Contract Regulations 2015.
Forward Plan	The statutory notice given of an intention to take a "Key Decision". See Section C3 of the Constitution.
Internal Control	A procedural system designed to manage risk to an acceptable level whereby different staff Members perform different parts of a task, so that no one person is entirely responsible for processing a transaction from start to finish.
Key Decision	A decision of such significance that additional processes apply. See Section C3 of the Constitution.
Leases	Agreements covering the hire/rental of equipment or buildings, generally for a specified period of time and at a specified rate. There are two types of leases, Operating and Finance
Leases (operating)	A lease where the risks and rewards of ownership remain with the lessor.
Leases (finance)	A lease where most of the risks and rewards associated with ownership are transferred to the lessee (responsibility for maintenance, insurance, etc. will fall to the Council)



Monitoring Officer	The Officer appointed by Council as the Monitoring Officer for the purposes of Section 5 of the Local Government and Housing Act 1989. The Monitoring Officer has statutory duties to report on matters they believe to be illegal or that amount to maladministration and is responsible for matters relating to the conduct of Members and Officers. They are also responsible for the operation of the council's Constitution.
Option Appraisal/Business Case	This is required for all Capital schemes and all significant revenue proposals and takes the form of a Business Case Template. This will be used to assess whether the scheme is affordable, deliverable and in accordance with the corporate plan. Consequences to the Service are considered and evaluated and it will also provide a basis for monitoring and reporting progress. In the case of revenue proposals, it will also take into account the risk and impact on users.
Policy and Expenditure Planning	The Council's annual cycle of planning for the medium and short-term future, aimed at achieving optimal allocation of available resources.
Policy and Expenditure Proposals	Proposals, including new policies, which have resource implications and will be subject to appraisal by Members, the Corporate Management Team and external consultees before inclusion in the annual budget.
Procurement	The process of acquiring goods, services and works which includes the choice of supplier, the specification of goods/ services/works required and the initiation of a purchase order or contract agreement.
Provision	An amount set aside by the Authority for any liabilities of uncertain amount or timing that have been incurred. The main



	category is estimates of liabilities or losses already incurred but whose exact amount will be determined in the future (e.g. bad debts, obsolete stock). See also Capital Provision and Provision for Doubtful Debt.
Provision for Doubtful Debt	An allocation of funds set aside from Service revenue budgets to cover amounts that may not be recoverable from debtors.
Prudential Borrowing Limits	The maximum amount of borrowing that the Council can enter into at any one point in time during the year. This limit is set by Council prior to the start of the year to which it relates and cannot be breached under any circumstances.
Quotation	An informal priced offer setting out the terms and conditions to supply requested goods or services.
Revenue Account	The Account that sets out the Council's income and expenditure for the year for non-capital spending.
Revenue Expenditure	Spending on the day-to-day running expenses of the Council. It includes expenditure on employees, premises, transport and supplies and services.
Ring Fencing	Certain budgets agreed by the Section 151 Officer are "ring-fenced". This means that under-spends on these budgets will return to balances and overspends will be met centrally. This is to reflect the fact that certain items of expenditure are either demand-led or so significantly influenced by extraneous factors that they are beyond the direct control of managers. Ring-fenced budgets include planning levies, external audit fees and election expenses.
Schemes of Delegation	Schemes of Delegation are the documents that set out, for each Service, any powers that Members of the Corporate Leadership Team have delegated to other Officers. Service Directors are responsible for maintaining up to date and accurate Schemes of Delegation and lodging a copy of the same with the Director of Legal and Governance.

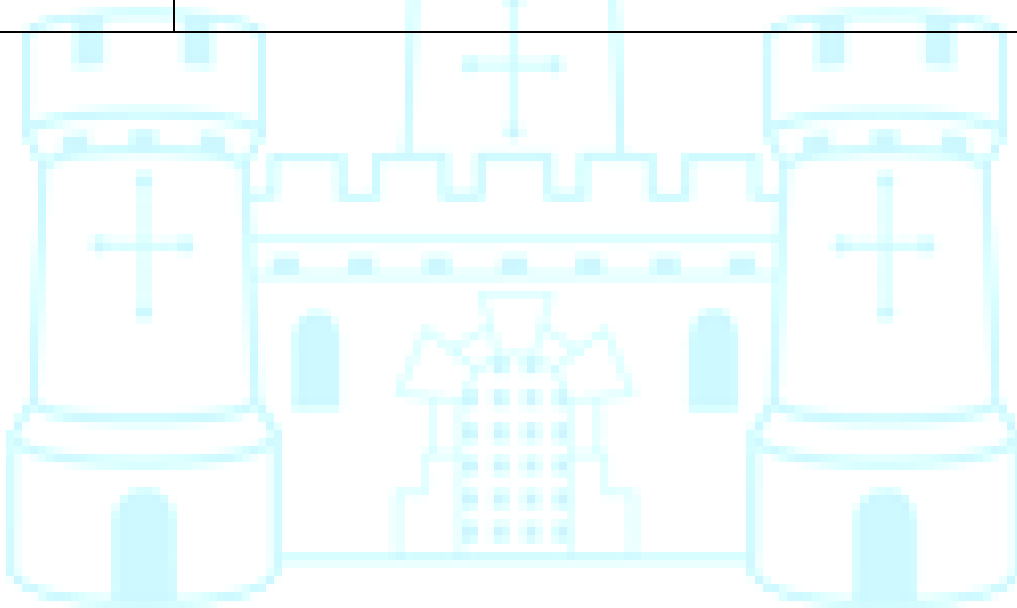


Section 151 Officer	The Officer designated by Council as the Section 151 Officer for the purposes of the Local Government Act 1972. The Section 151 Officer is responsible for the proper administration of the council's financial affairs.
Service Plan/Priority Delivery Plans	A plan which outlines measurable Service aims for the year ahead, encompassing both core purpose and specific key objectives for any given year. The Plan will consider both inputs and outputs.
Starts value	Represents the full value of the Council's contribution to a Capital Scheme irrespective of the timing of the payments.
Supplementary Capital Estimate (SCE)	Additional resources approved by Members with funds either provided by a third-party (e.g. developer contributions, receipts, government grant), by the use of Council reserves or from the Revenue budget
Supplementary Revenue Estimate (SRE)	An approved increase to a Service revenue budget during the financial year, funded centrally from reserves, contingencies or external funding sources such as grants or partner contributions.
Tender	A formal priced offer in response to an invitation to supply goods, services or works against a specification.
Tenderer	Any person or organisation invited to submit a Tender.
Third Party Funds	Funds provided by outside bodies or individuals in support of Council activities, establishments or clients. Can sometimes be known as trust funds.
Threshold	The financial level at which award of contract regimes under prevailing Public Contract Regulations 2015 apply
Underspend	An underspend results when the net costs of a budget holder are lower than the net budget for the year.
"Up to" or "to"	In tables setting out financial thresholds "up to" or "to" means up to and including the amount stated. In the same tables, "<" means more than.





Virement	A Revenue virement is a transfer of amounts from one budget heading to another within, or between, Service Directors of Service. Capital virements cover any changes to Capital budgets funded from within the existing Capital programme.
Voluntary Transparency Notice	A notice providing justification of the decision of the Council to award the contract without prior publication of a contract notice, in accordance with the requirements of Regulation 99(4) of the Public Contract Regulations 2015.



NEWCASTLE  
UNDER LYME  
BOROUGH COUNCIL