

# PART 6

## OTHER RULES AND REGULATIONS

**Access to Information Rules**

**Financial Regulations**

**Scheme of Transfers and Virements**

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## ACCESS TO INFORMATION RULES

### Scope

1. These rules apply to all meetings of the Council and its committees and sub-committees and public meetings of the Executive and its committees except where specified (together these meetings are herein referred to as "meetings"). Public meetings of the Executive are those meetings which are required to be held in public i.e. where a Key Decision will be made or discussed in the circumstances specified in Rule 28 below and those which the Executive determine should be held in public.
2. Nothing in these rules shall be treated as limiting or diminishing any rights conferred on the public, members of the Council or co-opted or independent members by any of the Standing Orders or other rules in the Constitution or the law.

### Rights of Press and Public to attend Meetings

3. The press and public shall, subject to the exceptions contained in these rules, be entitled to attend all meetings subject to the capacity of the room in which the meeting is held. Unless there is another meeting being held in the room in which the meeting is to be held, the press and public will be admitted to the room 30 minutes before the meeting is due to start.
4. Separate seating will be provided for the press and public and admission will be on the basis of "first come, first served" with no seating being reserved. Where a meeting is being held in the Council chamber the public (who are not invited guests) are only entitled to admission to the public gallery.
5. Except in respect of disturbances and unruly behaviour, the press and public may only be excluded from a meeting in respect of business relating to confidential or exempt information as defined in the relevant legislation and set out below, and any resolution excluding press and public shall specify the nature of the confidential and/or exempt information relating to the business to be transacted which justifies the exclusion.
6. At meetings of Full Council only guests of members (in addition to members or officers of the authority) shall be admitted to the floor of the Council chamber and only then on the understanding that their presence must be restricted to the accommodation provided.
7. No animal shall be allowed into any meeting, except a guide dog accompanying a blind or deaf person.

### Media

8. Photography and sound recording shall generally be permitted except where the public and media have been excluded and provided notice is given to the Democratic Services Manager by noon on the day of the meeting concerned. Any television production company shall be permitted to film any proceedings of any meeting except where the public and the media have been excluded. Any filming shall only take place from the positions authorised by the Democratic Services Manager for that purpose.

9. The Chair shall have discretion to regulate the behaviour of all media representatives present at a meeting in the interests of the efficient conduct of the meeting. In exercising this discretion the Chair shall have regard to the following principles:
- (a) the Chair's discretion shall not be used for the purpose of seeking to limit or restrict the right of the press to fairly report the business of the Council conducted in public and shall be used only for the purpose of enabling the efficient conduct of the meeting.
  - (b) the main priority shall be to enable the business of the meeting to be conducted by the members.
  - (c) the second priority shall be to enable the public and media representatives present at the meeting to see and hear the business being conducted.
  - (d) the third priority shall be to facilitate photography, sound recording and filming of the proceedings, bearing in mind always that these facilities are provided at the discretion of the Council and are in addition to the basic legal entitlement of the media to report the proceedings of the Council.
  - (e) generally media representatives will not be permitted to wander round within the meeting room.
  - (f) the use of any equipment which interferes with the efficient operation of hearing aids or facilities to improve hearing for the hearing impaired shall not be permitted.
  - (g) any sound recording equipment must not operate in such a way as to be audible and generally wandering microphones will not be permitted other than for brief periods not exceeding a few minutes.
  - (h) any photography must take place from positions approved by the Democratic Services Manager so that the view of members, officers, public and media representatives in attendance is not obstructed. Any use of flash lighting will generally be permitted for periods not exceeding a few minutes with much longer intervals between. Generally, close up photography in the sense of the photographer being close to the subject will not be permitted, with or without flash lighting; where this is desired it should be arranged before or after the meeting.
  - (i) if filming causes any noise it will be limited as for sound recording. Use of additional lighting in connection with filming will be restricted as for flash photography to minimise inconvenience to those others in attendance at the meeting.
  - (j) in the event of any television production company filming a meeting and then providing an unbalanced or unfairly edited account of it (applying the same criteria as are used in the televised reporting of Parliament) then the company concerned shall be denied any further filming facilities at meetings.
  - (k) any disruptive behaviour by any media representative will be dealt with in the normal manner under these rules.

- (l) where appropriate, the Chair and/or Democratic Services Manager as the case may be will give preference to media representatives who obtain agreement to their proposed activity before the meeting takes place.
10. The following shall be accepted as accredited representatives of news media for the purpose of reporting the proceedings to which they are admitted:-
- (a) staff reporters;
  - (b) reporters commissioned to cover particular stories; and
  - (c) freelance journalists on the books of a newspaper and working on a lineage basis.

**Notice of Meetings - The Weekly List**

11. Notice of meetings shall be given at least five clear working days in advance. On Friday in each week a list shall be published at the Town Hall giving notice of the meetings to be held in the week commencing on the second Monday following publication of the notice. This list should be known as "The Weekly List". If the Friday falls on a public holiday then the Weekly List shall be published the working day before the Friday.

**Access to Agendas and Reports prior to Meeting**

12. Except in the case of urgency (see below) the agenda for, and any reports or minutes to be submitted to, meetings shall be sent to members of the Executive or the relevant committee or sub-committee at least five clear working days in advance of the meeting in question.
13. Once agendas have been sent out as above, an item may only be added if it is urgent in the opinion of the Chair.
14. The papers which do not relate to any exempt or confidential matters ("the open papers") shall also be available for public inspection at the Town Hall from the date copies are sent or given to members together with the list of relevant background information (see below) and shall be despatched to any members who are not members of the committee or sub-committee upon request.

**Access to minutes and papers after a decision has been taken**

15. The Council will make available for inspection during normal office hours, copies of the following for six years after a decision has been taken:
- (a) the minutes of any meeting and, in the case of any Key Decision, or decision to be treated under these Rules as if it were a Key Decision, the record of the decision required to be prepared pursuant to these Rules (but excluding any minute or record which discloses any exempt or confidential information);
  - (b) a summary of any proceedings not open to the public where the minutes or record open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and

- (d) reports relating to items when the meeting was open to the public.

### Background Papers

16. All reports shall include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the proper officer who shall be the relevant Service Area or Corporate Director within whose Service Area or Corporate Unit the report was written or relates:
- (a) discloses any facts or matters on which the report or an important part of the report is based; and
  - (b) have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information or the advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989.
17. The relevant Service Area or Corporate Director will make available for public inspection during normal office hours for four years after the date of the meeting a copy of each of the documents on the list of background papers.

### Supply of Copies

18. The Council will supply copies of:
- (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars which are not exempt or confidential and which are necessary to indicate the nature of the items in the agenda; and
  - (c) if the Democratic Services Manager thinks fit, any other documents supplied to councillors in connection with an item
- to any person upon payment of the Council's standard charge for copying and postage and any other costs incurred.

### Additional Rights of Access for Members of the Council

19. (a) Any member of the Council will be entitled to inspect any document in the possession or under the control of the Council which relates to any business to be transacted at a meeting of the Council, a committee or a sub-committee, unless paragraph (d)(i) below applies.
- ~~(b)~~ Any member of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which relates to any business to be transacted at a public meeting unless paragraph d)(i) or (d)(ii) below applies. Deleted: (c)
- ~~(c)~~ Any member of the Council will be entitled to inspect at the conclusion of a meeting of the Executive or, in the case of a Key Decision made by an Officer, immediately after that decision has been made, any document which is in the possession, or under the control, of the Executive and which contains material relating to any business previously transacted at a private meeting or (in the event that they are permitted to take decisions) Deleted: b

any decision taken by an individual member of the Executive or any Key Decision made by an officer unless paragraph (d)(i) or (d)(ii) applies.

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(d) The circumstances referred to in paragraphs (b) and (c) are:-

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(i) it contains exempt information falling within paragraphs 1, 2, 4, 5, 7-10 of the categories of exempt information (see below) or contains information within paragraph 3 relating to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract (these categories are marked as "restricted" in the table of exempt information categories at the end of these rules)<sup>1</sup>; or

(ii) it contains the advice of a political adviser appointed under section 9 of the Local Government and Housing Act 1989.

(e) These rights of a member are additional to any other right he/she may have.

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**Additional rights for members of Overview and Scrutiny Committees**

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20. Any member of the Overview and Scrutiny Committee (including any sub-committee thereof) shall be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to any business already transacted at a meeting or (in the event that they are permitted to take decisions) any decision taken by an individual member of the Executive or any Key Decision that has been made by officers except:-

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(a) any document that is in draft form;

(b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or to any review contained in any programme of work of the relevant Committee of which they are member; or

(c) the advice of a political adviser appointed pursuant to Section 9 of the Local Government and Housing Act 1989.

**Human Rights Act**

21. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

**Key Decisions**

<sup>1</sup> New legislation has been made which aims to bring the access to information rules applied to Council, Committee and Executive papers and meetings into line with the Freedom of Information Act by making the exemption categories similar. The amendments to the categories of exempt information are shown later. This amendment to the Council's rules give effect to the provisions of the new legislation that give members a right of access to reports which are only exempt under category 6 (because they reveal that the Council proposes to give or make a notice or orders) or under category 3 (because they reveal financial or business information) unless in the case of a category 3 report it relate to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.

22. The Council will treat all decisions taken at a meeting of the Executive or a committee of the Executive as Key Decisions whether or not the decision would be classed as a Key Decision according to the statutory definition.
23. A decision taken by an officer exercising an executive function under delegated powers will be a Key Decision if the decision is likely to:
- (a) result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (b) be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority (notwithstanding that the statutory definition specifies an area comprising two or more wards)

Thus the Brent definition of a Key Decision is broader than the statutory definition.

24. In determining whether a decision falls into one of the above categories officers must consider each decision in light of its particular facts having regard to the statutory definition of Key Decisions and to:
- any relevant statutory guidance in force at the time;
  - the amount of money concerned;
  - the type of function; and
  - the overall circumstances of the case.
25. Special attention should be paid to decisions which are likely to result in a service area or corporate unit incurring expenditure which is, or the making of savings which are, 20% or more of its budget for the function in question. In determining what is a 'budget' or a 'function' for these purposes the person or body taking the decision should have regard to any guidance from the Monitoring Officer or Director of Finance and Corporate Resources.

**Consequences of a decision being classed as a Key Decision or treated as if it were a Key Decision.**

26. Subject to the rules on urgency (see below), a Key Decision or a decision to be treated under these Rules as if it were a Key Decision may not be taken (by the Executive or officers) in respect of any matter unless the matter in question has been publicised in the Forward Plan and unless the reports to be considered by the decision maker have been available for public inspection for at least 5 clear days prior to the date on which the decision is made and copied to the Chair of the [Overview and Scrutiny Committee](#). The Leader will be responsible for ensuring that the appropriate officer has publicised such matters in accordance with these rules.
27. If the Executive or its committee(s) meet(s) to take a Key Decision then it must meet in public (unless the matter relates to exempt or confidential information). For the time being, the Executive will, except when the matter relates to exempt or confidential information, always meet in public for their regular scheduled decision taking meetings whether or not the decisions being taken at that meeting would otherwise fall within the definition of a Key Decision.

28. If the Executive or its committee(s) meet with an officer present (other than a political assistant appointed under section 9 of the Local Government and Housing Act 1989) to discuss a matter relating to a decision included in the current Forward Plan within 28 days of the date according to the Forward Plan by which the matter is to be decided, or to discuss a matter in respect of which notice has been served under Rule 38 then the meeting shall be held in public. This requirement does not apply to meetings whose principal purpose is for officers to brief members e.g. the Leader's Briefing.
29. As soon as reasonably practicable after a Key Decision or a decision to be treated under these Rules as if it were a Key Decision has been taken, including for the avoidance of doubt any decision classed as a Key Decision taken by officers, a record of that decision must be prepared in accordance with these Rules and made available for public inspection. This will be included in the minutes of the meeting.

### **The Forward Plan**

30. A Forward Plan shall be prepared by the Democratic Services Manager on behalf of the Leader to cover a period of four months. The first such Forward Plan will commence on the first working day of any month.
31. The Forward Plan will contain details of the matters which the Leader has reason to believe will be the subject of a decision to be taken by the Executive or a committee of the Executive and any Key Decisions to be taken by officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
  - (a) the matter in respect of which a decision is to be made;
  - (b) the name of the decision maker or decision making body and details of membership;
  - (c) the date on which, or the period within which, the decision will be taken;
  - (d) the identity of the principal groups whom the decision maker or decision making body proposes to consult before taking the decision;
  - (e) the means by which any such consultation is proposed to be undertaken;
  - (f) the steps any person might take who wishes to make representations to the decision maker or decision making body about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
  - (g) a list of the documents to be submitted to the decision maker or decision making body for consideration in relation to the matter.
32. The Forward Plan must be published at least two weeks before the start of the period covered.
33. The Democratic Services Manager will publish once a year a notice in at least one newspaper circulating in the area, stating:
  - (a) that Key Decisions are to be taken on behalf of the Council;

- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on (at least) a monthly basis;
  - (c) that the Plan will contain details of the Key Decisions to be made for the four month period following its publication;
  - (d) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
  - (e) that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the plan;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
  - (g) that other documents relevant to those matters may be submitted to the decision makers or decision making body;
  - (h) the procedure for requesting details of documents (if any) as they become available; and
  - (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.
34. Exempt information need not be included in a Forward Plan and confidential information cannot be included.

### Urgency

35. The reports which relate to an item of urgent business which is added to an agenda in accordance with these Rules after the agenda has been sent out and/or the reports which relate to an item of business which is included on an agenda but in respect of which it was not possible for the report to be sent out with the agenda in accordance with these Rules shall be sent or given to members of the Executive or the committee or sub-committee concerned as soon as reasonably practicable and shall thereafter be made available for other members of the Council and for public inspection together with the list of background information.
36. The reason(s) for urgency shall be specified in the minutes of the meeting concerned together with the reason why it was not possible for the report to be available when the agenda was published (where relevant).
37. If a matter which is likely to be a Key Decision or a decision to be treated (under these Rules ) as if it were a Key Decision is not included in the Forward Plan then, if necessary, the decision may still be taken if:-
- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and that Forward Plan has come into effect;
  - (b) the Democratic Services Manager has informed the Chair of the [Overview and Scrutiny Committee](#) in writing of the matter in respect of which the decision is to be taken;

- (c) the proper officer has made copies of that notice available to the public at the offices of the Council; and
  - (d) at least 5 clear days have elapsed since the proper officer complied with (b) and (c).
38. If by virtue of the date by which a Key Decision or a decision to be treated under these Rules as if it were a Key Decision must be taken it is not reasonably possible to include it in the Forward Plan nor give notice in accordance with the preceding paragraph then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision (if a collective group), obtains the agreement of the Chair of the [Overview and Scrutiny Committee](#) that the taking of the decision is urgent and cannot be reasonably deferred. If the Chair is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.
39. The Leader shall report to the next meeting of Full Council any Key decisions taken under rules 37 and 38 above.

### Non-compliance

40. The Leader shall report to Full Council any decisions which were Key Decisions (or decisions to be treated under these Rules as if they were Key Decisions) in respect of which the rules applicable to such decisions were not complied with.
41. If the [Overview and Scrutiny Committee](#) or any of its sub-committees consider that a Key Decision or a decision which should have been treated (under Rules 22 or 23) as if it were a Key Decision, has been taken but the Rules applicable to such decisions were not complied with (and nor did any of the exceptions apply) then the Committee or sub-committee may require the Executive to submit a report to the Council within such reasonable time as the Committee or sub-committee may specify. The power to require a report rests with the Committee and sub-committees but is also delegated to the Democratic Services Manager, who shall require such a report on behalf of the Committee or sub-committee when so requested by 40% of the Members of the Committee or sub-committee. Alternatively the requirement may be raised by resolution passed at a meeting of the [Overview and Scrutiny Committee](#) or sub-committee.
42. If requested to do so in accordance with the above rule the Executive will prepare a report for submission to the next available meeting of the Full Council. However, if the next meeting of the Full Council is within 9 days of receipt of the written notice or the resolution of the committee or sub-committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body taking the decision, if the Leader is of the opinion that it was not a Key Decision [or a decision to be treated under these Rules as if it were a Key Decision] the reasons for that opinion or, if the Leader considers that the decision was a Key Decision but that the rules for taking the decision were complied with, the reasons for that opinion.

### Record of Executive Decisions and Key Decisions

43. In addition to the List of Executive Decisions prepared by the Democratic Services Manager under Standing Orders, the Democratic Services Manager will, as soon as reasonably practicable after a public meeting of the Executive, produce a record of every decision taken at that meeting which shall include a

statement of the reasons for each decision and any alternative options considered and rejected at that meeting any conflict of interest declared by any member and any dispensation granted by the Standards Committee in respect of any declared interest.

44. As soon as reasonably practicable after a Key Decision has been taken by an officer a record of that decision shall be prepared by the relevant officer setting out the information listed above and shall be forthwith submitted to the Democratic Services Manager.
45. A copy of the record(s) so prepared shall be despatched to the Chair of the [Overview and Scrutiny Committee](#) and made available for public inspection forthwith and copied to the Chair and Vice Chair of the relevant [overview and scrutiny panel/select committee](#) for information/action.

### Joint Committees

46. These Rules apply to the Council's Joint Committees as follows:
  - (a) If all the members of a joint committee are members of the Executive in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.
  - (b) If the joint committee contains members who are not on the Executive of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the Full Council and its committees will apply.

### Exempt and Confidential information

47. Nothing in the above shall be taken to authorise the publication of any report which in the discretion of the Democratic Services Manager is marked not for publication in accordance with the Local Government Act 1972 i.e. it contains confidential or exempt information.
48. Reports containing confidential information shall remain not for publication but in respect of reports containing exempt information the meeting to which the report is submitted may decide to take the report while the press and public are present in which case copies shall be made available to press and public at that time and the report and list of background information shall be available for public inspection from the next working day following the meeting.
49. The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
50. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
51. Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by law or Court Order.

**Standards Committee**

52. Exempt information categories 8-10 in the Table below only apply to the Standards Committee. Category 8 provides an exemption where information is subject to **any** obligation of confidentiality, subject to the public interest test.<sup>2</sup>

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<sup>2</sup> This is slightly different from the absolute requirement in the legislation (and reflected in rule 51 above) in respect of specific categories of confidential information because it covers a broader range of confidential information but is subject to the public interest test rather than being absolute.

53. Exempt information means information falling within the following 10 categories (subject to any condition also set out below):<sup>3</sup>

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<u>Category</u>	<u>Condition</u>	<u>Availability to Members</u> <sup>4</sup>
1. <u>Information relating to any individual.</u>	<u>This information is not exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</u>	<u>Restricted</u>
2. <u>Information which is likely to reveal the identity of an individual.</u>	<u>This information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</u>	<u>Restricted</u> <sup>4</sup>
3. <u>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</u>	<p><u>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under—</u></p> <p><u>(a) the Companies Act 1985;</u>  <u>(b) the Friendly Societies Act 1974;</u>  <u>(c) the Friendly Societies Act 1992;</u>  <u>(d) the Industrial and Provident Societies Acts 1965 to 1978;</u>  <u>(e) the Building Societies Act 1986; or</u>  <u>(f) the Charities Act 1993.</u></p> <p><u>Information falling within paragraph 3 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</u></p>	<u>Restricted to the extent that information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract</u>

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<sup>3</sup> This amendment replaces the old categories of exemption with the new categories brought into effect by recent legislation

<sup>4</sup> This column has been added so members can see at a glance which categories of report they are automatically entitled to see. In the case of “restricted” categories, the Protocol on Members Right of Access to Information contains guidance concerning when access to reports containing information in these categories may be possible.

<p><u>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</u></p>	<p><u>This information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</u></p>	<p><b><u>Restricted</u></b></p>
<p><u>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</u></p>	<p><u>This information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</u></p>	<p><b><u>Restricted</u></b></p>
<p><u>6. Information which reveals that the authority proposes</u>  <u>-</u>  <u>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</u>  <u>(b) to make an order or direction under any enactment</u></p>	<p><u>This information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</u></p>	
<p><u>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</u></p>	<p><u>This information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information..</u></p>	<p><b><u>Restricted</u></b></p>
<p><u>8. Information which is subject to any obligation of confidentiality. .</u></p>	<p>Information in this category is exempt where a meeting of the standards committee or a sub-committee of the standards committee is convened to consider a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2000 Act.</p>	<p><b><u>Restricted</u></b></p>

	<a href="#">The public interest test applies</a>	
<a href="#">9.</a> Information which relates in any way to matters concerning national security.	As above.	<a href="#">Restricted</a>
<a href="#">10.</a> The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part III of <a href="#">Part 3 of the Local Government Act 2000</a> in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2000.	As above.	<a href="#">Restricted</a>

Information falling within any of paragraphs 1-[10](#) is not exempt by virtue of that paragraph if it relates to proposed development for which the Council can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

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# FINANCIAL REGULATIONS

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**9. RETENTION OF DOCUMENTS**

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# FINANCIAL REGULATIONS

## INTRODUCTION

### 1.1 What This Section Covers

1.1.1 These Regulations form part of the Council's Constitution, which makes up the Council's regulatory framework alongside Standing Orders. They must be followed by all officers of the Council whether directly employed, contracted or employed through an agency in their conduct of financial and related matters. They cover the following fundamental areas of financial management and control:

- setting, monitoring and controlling the revenue and capital budget
- accounting responsibilities
- controlling income and expenditure
- external arrangements
- risk management and control of resources
- procurement
- retention of documents

### 1.2 To Whom the Regulations Apply

1.2.1 For the purposes of this document, the Chief Finance Officer is the Officer appointed by the Council in accordance with Section 151 of the Local Government Act 1972. (Further details of roles and responsibilities are set out in Part 4 of the Constitution).

1.2.2 These Regulations apply to all Officers, Service Area Directors, Directors and Heads of Corporate and Service Units who are described jointly as Managers in these Regulations. Managers are under a duty to ensure that their staff comply with these regulations. Failure to comply with the regulations may constitute misconduct and lead to formal disciplinary action.

1.2.3 The following describes the overall framework and the main roles and responsibilities in respect of the Regulations. This is not exhaustive and there will be overlaps. The Chief Finance Officer is responsible for reviewing these Regulations and reporting any significant breaches to the Executive or Full Council. Ultimately all staff are responsible for complying with all Regulations:

- The Chief Finance Officer puts in place financial standards and practices across the Council to deliver a framework for financial control, provide accurate, timely and consistent monitoring information, and sound advice on financial decisions to be made by officers and members.
- Service Area Directors ensure that their service area promotes, enacts and monitors adherence to the necessary financial control framework ensures effective budgetary control systems are in place and keeps spending within their aggregate cash limit, indicating where necessary, conflicts between current service policy and plans and resource allocation.
- Service Unit and Corporate Heads and Directors are required to keep accurate financial records, comply with the financial control framework and take timely action to keep spend within budget.

- Finance and Corporate Resources collate financial information, monitor implementation of the financial control framework, support service accountants and Managers in their financial responsibilities, and give assurance to management and members that adequate controls exist to produce sound financial administration.
- Service area accountants collate the financial information about their service area, provide financial advice to Managers in the service areas, provide financial information to Finance and Corporate Resources, support Managers in their financial responsibilities, help to implement the financial control framework and ensure sound financial administrative systems are in place.
- Audit and Investigations provide the Council's internal audit function and anti-fraud services. They are authorised representatives of the Chief Finance officer to assist him to discharge his statutory duties and provide Managers with advice and guidance on the system of internal control. They are responsible for investigations into financial irregularities across all Council services.

1.2.4 These Regulations are supplemented by, and should be read in conjunction with:

- Codes of Practice and Technical Standards, setting out more detailed requirements for financial arrangements, which may change from time to time.
- Guidance notes or memoranda on good financial management practice which may be issued periodically by the Chief Finance Officer.

## **SETTING, MONITORING AND CONTROLLING THE REVENUE BUDGETS**

### **2.1 Chief Finance Officer – Budgetary Role**

- 2.1.1 The Chief Finance Officer must prepare a consolidated budget for all Revenue Account activities and report on the robustness of the budget estimates and the adequacy of financial reserves. In addition, the Chief Finance Officer must supply information to Government departments and external bodies in a prescribed format. Managers must prepare their budgets in a way that enables them to supply information to the Chief Finance Officer to meet these requirements.
- 2.1.2 The Chief Finance Officer shall prepare and maintain a Scheme of Transfers and Virement to be approved by Full Council. This enables the Executive and Chief Officers to manage budgets with a degree of flexibility within the overall policy framework determined by the Full Council. Any variation from this scheme requires the approval of the Full Council.
- 2.1.3 The Chief Finance Officer will also make arrangements for the supply of financial information that needs to be included in performance plans and to ensure that systems are in place to measure activity and collect accurate information for use as performance indicators. Service Area and Corporate Directors must ensure adherence to these arrangements within their areas.

### **2.2 Setting the Budget**

- 2.2.1 The budget is the financial representation of the Council's policies. It will be proposed by the Executive and agreed by the Full Council. The Budget and Policy procedure rules are set out in Standing Orders. Each Manager shall be responsible for:

- Maintaining a proper system of budgetary control including ensuring that profiled budgets are loaded into financial systems and are properly maintained.
- Preparing estimates within the overall criteria and policy framework formulated.
- Apply recommended budget forecasting techniques to ensure that accurate monitoring data can be provided.
- Setting performance measures linked to Service Development Plans and reviewing progress and outcomes for the resources allocated.
- Delivering their specified service with the resources agreed.

2.2.2 Budgets must be produced in accordance with the Service Development Planning and Budget Guidelines document issued annually.

### **2.3 Monetary Limits**

2.3.1 The inclusion of money in the Revenue Budget approved by the Full Council shall authorise the Manager concerned to spend up to that sum. Managers are not authorised to exceed the cash limited budget under their control.

### **2.4 Transfer of Resources between Budgets**

2.4.1 Managers may transfer resources between budgets (virements) within that part of the budget under their direct control provided they comply with the relevant Standing Orders and the Scheme of Transfers and Virements in this Part of the Constitution.

### **2.5 Monitoring the Budget**

2.5.1 Once the budget is agreed Managers must ensure the budget is strictly monitored.

2.5.2 Finance and Corporate Resources will set out a monthly reporting timetable. The key events and responsibilities in the cycle will be:

- Managers supply information to service area accountants on spend to date, year end forecasts and financial and non-financial performance data in a format prescribed by the Chief Finance Officer.
- All accounts must be prepared on an accruals basis i.e. allowing for outstanding debtors and creditors at the end of each period. All information must be submitted monthly by the 10<sup>th</sup> working day of each month, signed by the Manager to confirm the accuracy of the figures produced.
- Service areas supply similar information on total spending within their responsibility (including units) to Finance and Corporate Resources.
- The Strategic Finance Group (SFG) will review the monitoring information and provide summary information and exception reports to the Corporate Management Team (CMT). CMT will examine proposed recovery plans, and take any other necessary action to deliver spending within overall resources.
- A budget monitoring report prepared by the Chief Finance Officer will be brought at least quarterly to a meeting of the Executive. In cases where budgets may be potentially overspent the action proposed to bring

expenditure within available resources must be detailed. If such action is endorsed by the Executive but makes changes to the Policy framework and the Budget which will require agreement by Full Council (see Part 5), officers cannot implement these changes until such endorsement is obtained.

## **2.6 Controlling the Budget**

- 2.6.1 Strict financial discipline must be maintained and once decisions have been made on the budget for a year Managers must seek to ensure that the budget plan is met.
- 2.6.2 Service Area and Corporate Directors shall make arrangements which ensure that each cost centre has a single named Manager and that significant variance from approved budgets are investigated and reported by Managers regularly.

## **2.7 Overspends**

- 2.7.1 Overspends in service areas are not acceptable. An overspend must be dealt with by action of some kind, even if this means changing policy, service levels and staffing levels, or virements from elsewhere in the Service's budget. This must be implemented within the overall rules of the Constitution. Each Service Area Director must notify the Chief Finance Officer immediately if it appears that any budget under their control is likely to overspend due to an estimate or approved expenditure being exceeded, or income not being achieved.
- 2.7.2 The Service Area and Corporate Director will be required to detail the action they propose to take to correct the overspend. Specific and costed proposals will be expected. Services may need to seek the Executive's and Full Council's approval for a change in policy in order to meet the overspend.
- 2.7.3 Service Areas have to take responsibility for their own budgets and to seriously examine their own capacity to fund new proposals or overspendings.
- 2.7.4 Where the action to be taken to control overspends or to meet any new expenditure involves the application of "*compensating savings*" or being "*met within existing budgets*" then precise budget heads must be identified and detailed. Any service implications must be fully stated. If details are not provided then the action will not be regarded by the Chief Finance Officer as satisfactory.
- 2.7.5 Any overspend of controllable expenditure has the effect at outturn of reducing the Council's Balances. Subject to any decision to the contrary by Full Council the service responsible for the overspend will be required to replenish the Council's balances from its own resources in the following year.

## **2.8 Surpluses/Underspends**

- 2.8.1 A surplus/underspend is only achieved after all items of expenditure and income relating to the year have been accounted for in full and proper allowance has been made for any uncollectable debts and disputes in relation to creditors and any Reserves and Provisions Established by the Director of Finance and Corporate Resources under the Scheme of Transfer and Virements.
- 2.8.2 Managers should ensure that at any time in the financial year and particularly towards the end of that year, that no expenditure is made for the purposes of avoiding a surplus position. This includes transferring of funds to external partners or

agencies. Managers must not commit any of these surpluses until the Council have agreed a policy for that particular financial year.

- 2.8.3 Following the closure of accounts each year, the Executive will examine the potential for allowing some part of underspends to be released to service areas and make proposals to the Full Council. The extent that this is possible will depend on the overall financial position, including the pressure on capital resources and other Council priorities.

### **3. SETTING AND MANAGING THE CAPITAL PROGRAMME**

#### **3.1 Authorisation and Financing**

- 3.1.1 It is the responsibility of the Chief Finance Officer to prepare for approval by Full Council a capital programme report and to set out the subsequent monitoring and reporting arrangements. The Service Area Directors shall support this process by supplying information in the format prescribed by the Chief Finance Officer.

- 3.1.2 The Chief Finance Officer will ensure that all reporting requirements under the Prudential Code are met and that all prudential indicators are maintained.

- 3.1.3 The Full Council will approve the Capital Programme and make budget allocations to Service Areas as part of the Policy Framework and the Budget. The method of financing of capital schemes shall be determined by the Chief Finance Officer except where a scheme can be funded from within a revenue budget cash limit.

- 3.1.4 Provision for costs associated with final accounts or retentions are the responsibility of the service and are required to build in budgets for this purpose.

- 3.1.5 When resources are allocated each service area must prepare a draft programme within the following constraints:

- it should not exceed the capital resources allocated for the financial year.
- the Manager must be satisfied that the nature of the works is in accordance with the definition of capital expenditure and the criteria set by Government Departments for grant and other funding regimes.
- commitments in future years must not exceed the budget agreed by the Council.
- any 'ring fenced' allocations must be maintained.

- 3.1.6 Draft programmes must be submitted to the Executive for approval. The report must seek individual scheme approval and managers must supply timely and accurate information that includes:

- a detailed appraisal of the all proposed schemes in both financial and/or social terms. The merits and disadvantages of each scheme must be made clear to Members. The financial appraisal may include the use of techniques such as discounted cash flow or cost benefit analysis and must consider whole life costs and alternative procurement mechanisms.
- the total cost of the scheme and the phasing of these costs where they extend beyond one year.

- any revenue costs associated including running costs and capital charges.
- the service outputs expected from the capital investment.
- a risk analysis dealing with the development, construction and funding of the scheme.
- where required by the Executive, block allocations should be broken down to scheme level and prioritised in accordance with policy guidelines.

3.1.7 Until approval of the Executive is granted there is no authority to incur expenditure on capital schemes other than those costs involved in preparing the scheme and its estimate, i.e. fees for architects, quality surveyors and engineers.

3.1.8 Once approved the Manager concerned shall be authorised to incur expenditure on a scheme provided that the Manager has complied with any other parts of these regulations and the Council's Contract Standing Orders.

3.1.9 Adjustments to Service Area capital programmes can be made during the year to reflect changes, for example in priority or the resources available provided that such adjustments are made in accordance with the Scheme of Transfers and Virements in this part of the Constitution. Any such change will need to be agreed by the Executive and then by the Full Council if it is outside the Policy Framework and the Budget. Details of all approved capital programmes and any changes made during the year must be forwarded to the Chief Financial Officer.

3.1.10 All bids to Government Departments for grant or other funded programmes shall be made by the relevant officer in the appropriate Unit. The Chief Finance Officer should be informed of by the responsible person in advance of any bid so the process can be co-ordinated.

3.1.11 Any interim/final grant claims or capital returns, which relate specifically to an individual Unit, shall be completed by that Unit. Claims and returns covering a number of Units shall be completed by the Chief Finance Officer, e.g. capital payments and out-turn returns. Copies of all annual bids, interim returns or final claims prepared by Units must be sent to the Chief Finance Officer.

## **3.2 Capital Programme Responsibility**

3.2.1 The Service Area and Corporate Directors shall be responsible for:

- making adequate arrangements for the management and monitoring of their capital programme.
- reporting to the Chief Finance Officer forecast overspends and detailing the action they propose to control the overspend and to set out the arrangement by which it will be funded from within the service area's programme. In cases where this proposed action will stop or significantly change any previously agreed projects or programmes then this may require the approval of the Executive and Full Council.
- ensuring capital monitoring returns in the form and with the frequency specified by the Chief Finance Officer are produced by the responsible officers.

- providing progress reports on their capital programme as requested by the Chief Finance Officer.

3.2.2 Each Manager is responsible for ensuring that:

- Expenditure is contained within the capital resources allocated in each financial year, and that the overall cost of the scheme does not exceed the budget allocated.
- Commitments falling into future years are kept within agreed limits.
- Where an individual scheme has exceeded, or is projected to exceed, the approved budget, this should be reported to the Service Area Director and the Chief Finance Officer immediately.
- Post completion reviews are undertaken for all schemes valued in excess of £150,000.
- Adequate option appraisal has been undertaken on all individual schemes valued in excess of £150k. This should include design & construction options together with likely cost implications, contract procurement options and funding options.

3.2.3 Where an underspend occurs the Executive will examine the potential for allowing some part of the underspend to be released to the unit concerned and make proposals to the Full Council.

### **3.3 Underspends and Slippage**

3.3.1 Following the closure of accounts each year, the Executive will examine the potential for allowing some part of underspends to be released to service areas and where required make proposals to the Full Council. The extent that this is possible will depend on the overall financial position and other Council priorities.

3.3.2 Managers must ensure that adequate systems are in place to identify and then report to the Chief Finance Officer any schemes or programmes that are forecast to underspend or where expenditure slippage may occur.

3.3.3 Slippage on scheme budgets identified:

- At year end will be treated as if an overspend per paragraph 3.3.1 above.
- During the year will be allowed to be carried forward where:
  - (a) There is an existing contractual agreement for the provision of the works related to the scheme.

OR

  - (b) The scheme covers more than one financial year and costs are being rephrased.

### **3.4 Leasing, Loan and Financing Agreements**

3.4.1 In order to ensure compliance with the prudential framework, Managers may not enter into any leasing agreements or any other loan or financing arrangements for

the acquisition of property, vehicles, plant or equipment without the prior consent of the Chief Finance Officer.

#### **4. ACCOUNTING RESPONSIBILITIES**

##### **4.1 Accounting Systems and Procedures**

- 4.1.1 The Chief Finance Officer is responsible for determining the accounting systems that shall be used by the Council. New financial systems or changes to existing systems should not be introduced or made without the prior approval of the Chief Finance Officer.
- 4.1.2 Each Service Area and Corporate Director shall establish a scheme of authorisation identifying officers authorised to act upon their behalf in respect of payments, income collection and placing orders, including variations, and showing limits of their authority.
- 4.1.3 Service areas must regularly review their accounting systems to ensure that report outputs are timely, accurate, clear, convenient and readily understood by users.
- 4.1.4 Managers will be responsible for ensuring that officers involved in operating accounting systems and undertaking financial procedures receive proper assessment of their financial skills and learning and development needs.

##### **4.2 Accounting Policies**

- 4.2.1 The Chief Finance Officer is responsible for determining the Council's accounting policies. Each Manager is responsible for ensuring that these policies are adhered to and applied consistently in units' accounts. The underlying principles include:
- the accounts should be a fair presentation of the Unit's financial position and transactions in respect of that financial year.
  - income and expenditure should relate to the services provided in the same accounting period (the financial year). In revenue accounts, provision must be made for income and expenditure earned/used irrespective of when the amounts are actually paid or received.
  - the accounts should be prepared on a prudent basis with income only being included to the extent that it is likely to be received; proper allowance should be made for all known liabilities and losses.
- 4.2.2 The Chief Finance Officer will prepare and issue to all units the "*Closing Your Accounts*" document on an annual basis. This will detail all end of year reporting requirements as specified by the Chief Finance Officer. Each Manager is responsible for ensuring compliance with this document.
- 4.2.3 Where a provision and/or liability recorded in the balance sheet is deemed no longer appropriate, then this must be reported to the Chief Finance Officer who will determine the treatment of these balances.

##### **4.3 Accounting Records**

- 4.3.1 Each Manager is required to maintain and securely hold complete and accurate accounting records of all the financial transactions under their control.

- 4.3.2 Managers must also ensure that VAT, Income Tax and other statutory additions deductions are properly calculated and accounted for on all transactions where appropriate and supply to the Chief Financial Officer such details of statutory additions/deductions as are required to meet the appropriate accounting requirements and enable the submission of statutory returns.
- 4.3.3 Any adjustments to the accounts (journal entries) must be properly documented to incorporate adequate explanatory narrative and cross-referenced to proper working papers. They should be signed or identified by the originator.
- 4.3.4 Managers must ensure that all accounts are supported by full documentation, which is retained for inspection for a period complying with the rules on retention of documents as detailed in section 9.
- 4.3.5 Managers must ensure that adequate procedures are in place to enable accounting records to be reconstructed in the event of systems failures.
- 4.3.6 Managers must ensure that prime reconciliation procedures are carried out on a regular basis and shall provide evidence as required by the Chief Finance Officer. As a minimum:
- All bank accounts under their control, including client and purchasing accounts, must be fully reconciled and reported on a monthly basis.
  - All Accounts, including Debtors and Creditors Accounts, VAT and Payroll must be reconciled on a regular monthly basis and at the end of each financial year.
  - Holding Accounts and Suspense Accounts must be cleared on a regular monthly basis and, if there is any balance at the end of the financial year, this must be justified.

#### **4.4 Final Accounts - Year End Requirements**

- 4.4.1 The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the UK: A Statement of Recommended Practice and for ensuring proper arrangements are made for the audit of the accounts in accordance with the Accounts and Audit Regulations 2003.
- 4.4.2 Each Manager shall be responsible for producing detailed final accounts after the end of each financial year (1st April to 31st March) produced in accordance with codes of practice and agreed timetables and shall provide such information as is required by the Chief Finance Officer to meet statutory accounting requirements.
- 4.4.3 Managers must maintain full supporting documentation and audit trail to justify all figures contained in their accounts and be able to present for internal and external audit as required.

### **5. CONTROLLING INCOME AND EXPENDITURE**

#### **5.1 Income - General**

- 5.1.1 Each Manager is responsible for the:

- collection of all income due to the Council in respect of services provided by that Unit;
- safe custody of all income;
- effective recovery action;
- establishment of performance management systems to monitor the recovery of income;
- maintaining of all records relating to income collection and debt write-offs.

Detailed guidance on income collection is included in the Finance Technical Standard on Income Collection.

- 5.1.2 Any proposals to enable on-line income collection or payment facilities must be approved by the Director of Finance and Corporate Resources prior to implementation.
- 5.1.3 Wherever possible, income should be collected prior to or at the point of delivery of service. Managers must ensure the appropriate charging of VAT. Further advice is set out in the Technical Standard on VAT.
- 5.1.4 Where invoices are issued for the collection of debts these shall be issued promptly and all necessary action taken for recovery of that debt. Detailed guidance on recovery is included in the Finance Technical Standards on Income Collection (see section on Recovery).
- 5.1.5 All income received on behalf of the Council shall be paid into the appropriate bank account without delay. Third party and personal cheques must not be cashed from moneys held on behalf of the Council.
- 5.1.6 Each Manager shall review their charges at least annually. Such reviews shall take account of any criteria agreed by Full Council except where such charges are fixed by statutory provision.
- 5.1.7 A numbered receipt must be issued for all items of income collected on behalf of the Council. With the exception of tickets, Managers must keep a copy of each receipt. All forms of receipt must be treated as controlled stationery, i.e. numbered and kept in a secure place with all issues recorded.
- 5.1.8 Receipts must be properly accounted for and accounts reconciled on a regular basis. Any major discrepancies in income collected against that banked must be immediately investigated and notified to Audit and Investigations.
- 5.1.9 Cash should be banked as soon as possible after receipt and should be held in a secure place until banked. Each Manager must advise the Chief Finance Officer of their arrangements so that insurance cover can be effected on cash in transit and income limits on safes etc. can be observed.
- 5.1.10 As far as possible the responsibility for raising an invoice should be separate from that of determining amounts due. Managers are responsible for taking prompt action for the recovery of outstanding debts including legal action where appropriate.

## **5.2 Income – Grants**

- 5.2.1 Where income is in the form of grants from government or other external bodies then the Manager shall ensure that when claiming that grant, all eligible expenditure is taken into account and that grant claim submission dates are met. For audit

purposes, the Manager must ensure that an adequate audit trail exists from the claim to the general ledger.

### **5.3 Income – Bad Debts and Write Offs**

- 5.3.1 Directors shall make an appropriate bad debt provision within their budgets. Where it is necessary to establish a bad debt provision, these must be made net of VAT. Further advice on the treatment of income related VAT can be found in the Finance Technical Standard on VAT.
- 5.3.2 Debts should not be written off until all appropriate recovery action has been exhausted. A decision to write-off a debt must be taken independently of the person responsible for debt collection. Directors have delegated powers to authorise the write-off of debts only in relation to their own operational budgets up to the value of £1,000 a schedule of which must be submitted to the Director of Finance and Corporate Resources in an approved format. Any debt above £1,000 is to be agreed individually in advance by the Director of Finance and Corporate Resources. Those debts over £3,000 will be reported to the Executive bi-annually.
- 5.3.3 Following approval to write-off debt, Managers must ensure that the appropriate accounting and budgeting adjustments are made.

### **5.4 Expenditure – General**

- 5.4.1 Managers are responsible for ensuring that all expenditure under their control is incurred lawfully, is within budget provision and that the best value has been obtained in procuring goods and services. Managers must ensure that only relevant expenditure is charged against an approved budget head.
- 5.4.2 It is essential that Managers ensure there are effective internal controls over the payment process. There must be a clear division of duties between placing orders, authorising payment and signing cheques / payment instructions. Managers must keep a record of the officers responsible for these functions and the limits of their authority.
- 5.4.3 In order to safeguard financial propriety, the following principles shall be observed in the allocation of duties:
- the duty of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums shall be separated as completely as possible from the duty of collecting or disbursing them.
  - employees charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
  - the procedures in place and the responsibility of officers should be in writing and available for examination.
- 5.4.4 Managers must also ensure that there is a system of authorising payment from bank accounts, which is sufficient to prevent fraudulent or inaccurate payments being made.
- 5.4.5 The Council holds a corporate account with a credit card company. Arrangements for payment by this means should be made through Exchequer Services.

5.4.6 Managers must ensure that all claims for the reimbursement of officer and non-officer expenses are treated in accordance with the technical standard on *“the reimbursement of expenses”*.

## 5.5 Expenditure – Official Orders

5.5.1 Contracts of £150,000 in value or more must be executed in accordance with the Council’s Standing Orders. Official orders must be issued for all other work, goods or services to be supplied to the Council at the time the order is agreed, unless a formal written contract is entered into in respect of the transaction. Any terms and conditions relating to that order must be attached to or referred to in the Order Form. Official orders are not required for the supply of gas, electricity, telephone or water supplies. These must be paid on actual readings, at least once a year. Managers should take appropriate steps to ensure value for money in the purchasing of all goods and services.

5.5.2 Official orders and contracts of less than £150,000 in value shall be signed only by officers authorised by an appropriate Manager to sign order forms for the issuing Unit. A copy of each such official order or written contract shall be retained by the issuing Unit. Any subsequent variation or amendment to an order or written contract shall be made only by those staff authorised to sign orders and should be noted on the copy of the order or formally recorded in some other way.

5.5.3 The function of placing an order (i.e. determining the supplier and issuing a physical order for the supply) should, as far as possible, be separated from the function of receiving and inspecting the supply.

5.5.4 Before placing any contracts or orders for work to be undertaken, a Manager must be satisfied that the contractor is technically competent, has sufficient financial standing to carry out the work and can produce work, goods and services to the required quality.

5.5.5 Managers must ensure:

- that unique pre-numbered official orders are used for all goods and services;
- that orders are only used for goods and services provided to the unit and not by individuals for obtaining goods and services for their private use.

5.5.6 Officers authorising orders must be satisfied that the goods and services ordered are appropriate and needed, that adequate budgeting exists and that the necessary quotations or tenders have been received

## 5.6 Expenditure - Paying Invoices

5.6.1 Managers shall make arrangements for the payment of properly authorised accounts. No payment shall be made unless supported by an invoice or payment request. There must be a clear division of responsibility between placing orders and paying invoices and those authorising payment and signing cheques must be satisfied that the expenditure is valid.

5.6.2 Officers certifying sums to be due for payment shall first satisfy themselves that such sums are legally and properly payable, and that budgetary provision exists to cover the payment.

### 5.6.3 Processing Invoices - Managers must put in place arrangements which ensure that:

- Invoices are matched to orders raised. This should be done as soon as possible as this is the Council's protection against any dispute.
- The goods/services delivered or work carried out must agree with the order and delivery note (where applicable) in respect of quality, quantity and price.
- Invoices are checked to ensure they are properly payable, are arithmetically correct and include the appropriate VAT details.
- Except in cases of absolute emergency, payments are not made on photocopies and/or faxed invoices.
- In order to demonstrate that all the appropriate checks have been carried out it is advisable to use a certification slip or payment stamp.
- All payments should be authorised.
- Any goods returned or unsatisfactory services should be recorded on the delivery note and copy order at the time to ensure they are not paid for in error.
- No payment for goods and services can be made until they have been received, unless contractually required or where external funding is at risk and the funding body allows and only with the prior written approval of the Director of Finance and Corporate Resources and the Borough Solicitor.
- The invoice has not previously been paid.
- The invoice is properly coded.
- Appropriate entries will be made in accounting records.

5.6.4 In cases where goods are ordered from abroad it may be necessary to make a payment in a foreign currency. These arrangements should always be made through the Council's bank. The detailed arrangements are set out in the Finance Technical Standards - Foreign Currency Payments.

5.6.5 There are certain payments where invoices are not available as the payment is generated internally, e.g. student awards, various grants, refunds of rent or tuition fees etc. These payments never attract VAT. The payment of these items needs to be properly constructed through a system of internal payment documents a copy of which must be retained to support the transaction.

5.6.6 Periodic payments are those made for rents, ground rents way leaves etc. for many years. A register of periodic (regular) payments should be kept to ensure that payments are made accurately and by the due date.

## 5.7 Expenditure – Payroll

5.7.1 The payment of all salaries, wages, pensions, compensation, other emoluments and the deductions from salaries for tax, superannuation and other deductions to and/or from all employees and former employees of the Council shall be made under arrangements approved by the Chief Finance Officer. Managers are under a duty to

ensure that all appointments, resignations, absences, overtime or other circumstances affecting the salary, wage or emoluments of an employee in their Unit are acted upon immediately.

- 5.7.2 Managers must ensure that all appointments are made in accordance with the framework of terms and conditions, including grading structures and pay scales, approved by the General Purposes Committee (and available from Human Resources) and that adequate budget provision is available.
- 5.7.3 Managers are responsible for ensuring that suitable arrangements are in place for payroll administration. It is essential that Managers ensure that sufficient controls are in operation to prevent fraudulent or erroneous payments. Managers are responsible for ensuring that only authorised payments are made. In particular effective authorisation procedures are needed in respect of new starters, leavers, absences and variations to pay. They should include a proper division of duties between staff authorising payments and those checking payroll output. In no circumstances may a member of staff authorise or process a transaction in relation to their own remuneration.
- 5.7.4 Managers are responsible for ensuring that all data is input correctly to the payroll system and that all deadlines are met.
- 5.7.5 All car mileage payments must be made through the payroll. Car mileage claim forms must be sent to Payroll Section with a valid cost code.
- 5.7.6 It is the responsibility of the Manager to ensure that settlement of any Council loans is agreed when completing the leaving notice. A copy of the notice must be sent to Exchequer Services if the Leaver has an outstanding loan.

## **5.8 Expenditure - Petty Cash**

- 5.8.1 Managers will be responsible for funding their petty cash imprest accounts out of their bank accounts. A separate bank account may be held specifically for the purposes of petty cash. Details regarding Imprest Accounts can be found in the Finance Technical Standards - Imprest Accounts.
- 5.8.2 Petty Cash must be properly accounted for and reconciled on a monthly basis also taking into account VAT where applicable. Officers administering petty cash should ensure that expenditure conforms to the legal and justifiable tests as for general expenditure. Proof of expenditure should be requested in all cases and documentation should be retained in accordance with general expenditure items.
- 5.8.3 Managers must make adequate arrangements:
- for the safe custody of cash held;
  - to ensure the float is never used to cash personal cheques or to make personal loans.

## **5.9 Expenditure - Capital Payments**

- 5.9.1 Each Unit is responsible for making their own capital payments except on invoices for schemes in final account or retention stage at 31st March 1994. These should be certified for payment and then passed to the Chief Finance Officer.

- 5.9.2 The responsible officer must ensure that procedures comply with **Section 5.6.3 (Processing Invoices)** of these Regulations.
- 5.9.3 Units are responsible for ensuring that adequate records are kept and that the proper treatment is applied to VAT and Construction Industry Tax transactions. Returns in this respect are required to be submitted to the Chief Finance Officer. In order to ensure that proper capital charges are calculated, Units will be asked to submit at regular intervals details of expenditure for each Capital Scheme and asset values.
- 5.9.4 Units shall keep contract registers to provide a record of all interim payments and any outstanding retention amounts.

#### **5.10 Expenditure – Internal Trading**

- 5.10.1 The Chief Finance Officer is responsible for approving new internal trading initiatives. Where necessary approval of the Executive or Full Council will be obtained.
- 5.10.2 Managers are responsible for ensuring that the agreed budgeting, accounting and charging procedures are adhered to.
- 5.10.3 Any trading surpluses shall be retained for the benefit of the authority and their application shall require the approval of the Chief Finance Officer.

#### **5.11 Income and Expenditure Taxation Returns**

- 5.11.1 It is the responsibility of the Chief Finance Officer to make arrangements for the completion of all returns to the Inland Revenue and HM Customs and Excise. Managers must provide information to the Chief Finance Officer in the format and timetable required in order to meet these responsibilities. Finance Technical Standards have been issued to cover these areas.
- 5.11.2 Managers are responsible for VAT on expenditure and income. A number of Council services attract VAT, which must be passed on to customers and separately accounted for. Details of items attracting VAT, the rates to be applied and the specific accounting arrangements are contained in Finance Technical Standards - VAT.
- 5.11.3 The majority of payments made to suppliers and contractors will be subject to VAT. In these cases an original VAT invoice must always be obtained. A supplier not registered for VAT is not entitled to charge VAT. VAT invoices must contain certain information, details of, which are set out in the Finance Technical Standards. These also set out a number of practical guidelines, which must be observed.
- 5.11.4 Heavy penalties will be imposed on the Council if it submits incorrect VAT returns. Any penalties resulting from a misdeclaration will be charged to the Unit concerned.
- 5.11.5 Managers must submit a monthly return to the Chief Finance Officer providing details of VAT charged and paid. These returns must be submitted in a format notified by the Chief Finance Officer within specified timescales.
- 5.11.6 Payments to subcontractors engaged or contracted by the Council for work of a construction nature are subject to special verification and reporting. These arrangements are set out in the **Finance Technical Standards - Income Tax**. Each Manager must submit returns in a prescribed format to the Chief Finance Officer providing details of payments made for construction operations under the Construction Industry Scheme.

- 5.11.7 All payments to employees and former employees of salaries and wages - including London Weighting - overtime, fees, commissions, bonuses, performance related pay, contract additions, leased car allowances, honoraria, sickness payments - including SSP and SMP - holiday pay, pensions compensation, other emoluments and other taxable and/or superannuable payments must be made through the payroll system. They must not be paid out of petty cash, or through Unit payments systems. This is essential to ensure that all statutory deductions and pension contributions are correctly made and paid over.
- 5.11.8 Any payments made to employees, which are taxable benefits but are not made through the payroll system, must be declared to the Inland Revenue annually.
- 5.11.9 Payments to self-employed persons employed by Units, as consultants or temporary workers must be treated with extreme care. Before paying an invoice to a self employed person the paying unit must satisfy themselves of the status of the person by completing the questionnaire included in Finance Technical Standards – Income Tax. If in any doubt the person must be paid through the payroll.
- 5.11.10 For payments where interest is payable, income tax must be deducted from the interest at the prevailing rate. A certificate of deduction of income tax must be completed and sent to the payee. A monthly schedule of interest paid and tax deducted must be sent to the Chief Finance Officer to enable the tax deducted to be paid over to the Inland Revenue.

## **6. EXTERNAL ARRANGEMENTS**

### **6.1 Accountable Body and Partnership Arrangements**

- 6.1.1 Part 4 of the Constitution requires that approval must be obtained from the relevant member level body before entering into any partnership arrangement with any other body.
- 6.1.2 The Chief Finance Officer must be informed and written approval obtained before entering into any proposed accountable body or partnership arrangements, Managers must provide to the Chief Finance Officer unless he/she confirms in writing this is unnecessary in the particular case:
- evidence of scheme appraisal for financial viability in both the current and future years;
  - a risk appraisal including a management action schedule and a statement setting out the internal control framework;
  - confirmation of funding streams, the level on contribution and how they have been determined;
  - evidence of the funding agreement, including the treatment of any under or overspending;
  - in the case of partnership arrangement, details of service continuation proposals upon expiry;
  - evidence of the financial viability of any partners;

- details of any performance/output standards that must be achieved and who will monitor them;
- details of the agreed audit arrangements;
- the protocol for any disputes;
- the arrangements put in place for the review of inflation and efficiency saving;
- which assets will be used and who will own them.

6.1.3 In addition, where the arrangement includes a pooled budget then the Chief Finance Officer must be notified of:

- who will be the lead and host authority;
- who will be the pooled budget manager;
- the provisions of the agreement;

6.1.4 Managers must:

- ensure that all statutory accounting requirements are identified and that adequate accounting arrangements are agreed in order to ensure that all expenditure and income is properly incurred/received and recorded;
- maintain a register of all arrangements entered into with external bodies and that agreements and arrangements are properly recorded;
- ensure that such arrangements do not impact adversely upon other services provided by the Council.

## 6.2 External Funding

6.2.1 When seeking or bidding for external funding, including grants, Managers must ensure that the objectives of the funding programme are consistent with the Council objectives and priorities.

6.2.2 Managers must also ensure that the receipt of any external funding does not lead to a resource commitment in future years that does not have a sustainable funding source. The Chief Finance Officer must be advised of any such arrangements prior to entering into the same.

6.2.3 Managers responsible for expenditure funded wholly or partly by central government and or other external bodies/partners must ensure that:

- all funding notified by external bodies is received and properly recorded in their accounts;
- the match funding requirements are considered prior to entering into agreement and that future revenue budgets reflect these requirements;
- service output targets/requirements can be met and that adequate arrangements are put in place for their monitoring and reporting;

- any audit requirements are met.
- any other conditions associated with the funding are achievable and complied with.

### **6.3 Provisions of Goods and Services to Other Bodies**

6.3.1 Current legislation enables the Council to provide a range of services to other bodies. Before entering into any new contractual arrangement, Managers must ensure that they have written legal advice that the Council has power to make such arrangements.

6.3.2 Managers will also need specific Executive approval to enter a contract for the provision of goods or services to a body or individual external to the Council if:

- the contract value would exceed £150,000 per annum; or
- the gross cost to the Council of providing the relevant goods or services under the contract is estimated to exceed £150,000 per annum having consideration to the full costs over the term of the contract. It is not acceptable to split contracts into smaller parcels to avoid exceeding the £150,000 per annum threshold above.

6.3.3 Reports to the Executive on such proposals must include legal advice prepared by the Borough Solicitor or his or her representative indicating whether the Council has legal powers to enter the contract, an explanation of the business risks associated with entering the contract and a full analysis of the financial impact.

6.3.4 Any contract for the provision of goods or services to a body outside the Council, which exceeds £500,000 per annum in value, shall be in a formal document under the seal of the Council.

6.3.5 The Chief Finance Officer must be informed of any proposed arrangements and shall agree all financial arrangements made prior to approval by the Executive or Full Council.

6.3.6 The Manager shall be responsible for:

- ensuring that appropriate insurance arrangements are made;
- ensuring that all potential risks are identified and action identified which will minimise those risks to the Council;
- wherever possible, payment is received in advance of the delivery of the service;
- ensuring that such contracts do not impact adversely upon the services provided by the Council;
- maintaining proper contractual documentation;
- proper accounting and reporting arrangements exist.

### **6.4 Grants to Outside Bodies**

6.4.1 Grants are given by the Council under various statutory powers to improve various aspects of life in the borough. An example of such statutory power is Section 25 of

the Local Government Act 1988, which deals with the provision of financial assistance to individuals in connection with the provision of housing.

- 6.4.2 Grants must be distinguished from contracts and it is essential that officers entering into grant arrangements carefully consider whether or not the Council wishes to enter into contractual relations with the recipient of money from the Council. It may be the case that a grant is not appropriate in certain circumstances, in which case a contract should be used.
- 6.4.3 Where grants are to be given, the Council must ensure that the organisation in receipt of the grant adheres not only to the Council's agreed "Standard Conditions Of Grant Aid" but also to any further specific conditions over and above those which are standard. Where there is a detailed grant agreement the Standard Conditions themselves need not be incorporated into the agreement provided the Borough Solicitor is satisfied that the grant agreement contains equivalent provisions.
- 6.4.4 It is essential that officers who administer grants ensure that there is a proper system in place to ensure that the Council is gaining value for money through its grant process. This gives rise to the necessity of having a robust monitoring, evaluation and reporting structure in place.
- 6.4.5 It is essential that the money paid must be into a UK bank account the records relating to which the Council can inspect.
- 6.4.6 Managers must ensure that adequate controls are included in all procedures to safeguard the Council, its resources and its assets from fraud or loss.

## **7. RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **7.1 Risk Management and Insurance**

- 7.1.1 The Chief Finance Officer shall be responsible for the preparation and promotion of the Council's risk management policy statement.
- 7.1.2 Subject to any liability imposed on the Council by statute or other legal obligation, all insurance shall be effected by the Chief Finance Officer or under arrangements approved by him/her. Managers shall be responsible for ensuring that assets under their control have appropriate insurance cover within the overall guidance issued.
- 7.1.3 Service Area Directors must:
- ensure that adequate risk management controls are implemented, monitored and reviewed;
  - notify the Chief Finance Officer immediately of any loss, liability or damage that may lead to a claim against the Council;
  - notify the Chief Finance Officer of all new risks, properties or vehicles that require insurance and of any alternations affecting existing insurances;
  - consult with the Chief Finance Officer and the Solicitor to the Council on any terms or any indemnity that the Council is requested to enter into.

## **7.2 Internal Controls**

7.2.1 The Chief Finance Officer shall make arrangements for the production and publications of an annual independent statement on internal control and risk management.

7.2.2 Service Area and Corporate Directors must ensure that:

- adequate systems of internal control are established, adhered to, tested and reviewed in order to be confident in the areas set out in the annual assurance matrix;
- staff have a clear understanding of the consequences of lack of control and knowledge of Financial Regulations.

## **7.3 Audit Requirements**

7.3.1 The Chief Finance Officer will ensure that a strategic and annual audit plan is prepared by the Head of Audit and Investigations which takes account of the characteristic and relative risks of the activities involved. The Chief Finance Officer is responsible for ensuring that adequate arrangements are made for the effective delivery of this plan.

7.3.2 The Chief Finance Officer will ensure that members and chief officers receive suitable reports setting out the findings of internal and external audit reports.

7.3.3 The Chief Finance Officer, or authorised representative, shall have authority to:

- Enter any municipal building, land or area where records relating to any activity of the Council, its partners, contractors or any body partly or wholly funded by the Council, are, or may be, held. This includes all schools who receive funding from the Council. If necessary, to conduct searches of those areas, including cabinets, workspaces, desks for the purposes of locating documents or other material relevant to any matter under investigation. Where necessary to remove and examine IT equipment.
- Have access to all records, data, computer systems, correspondence and any other source of information relating to any matter under examination and remove any documents and records as deemed necessary. This will include documentation held by Council Officers in respect of organisations who are partners of the Council receiving funding from the Council or are providing services on behalf of the Council.
- Require and receive such explanations as are considered necessary concerning any matter under examination.
- Require any person holding or controlling cash, stores or any other Council property to produce such items for examination. These may be removed as deemed necessary.

7.3.4 Service Area and Corporate Directors must:

- consider and ensure Managers respond promptly to recommendations in both internal and external audit reports;

- ensure that agreed actions arising from the audit recommendations are carried out in a timely and efficient fashion;
- report to members the reasons for any failure by Managers to implement those audit recommendations.

7.3.5 Managers must ensure that new systems for maintaining financial records, or changes to such systems, are discussed and agreed by the Head of Audit and Investigations prior to implementation.

#### 7.4 Financial Irregularities

7.4.1 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected financial irregularity in the exercise of the functions of the Council, every employee has a duty to report such matters to their Manager. This includes anything that can detrimentally affect the Council's interests. The Manager concerned shall, as soon as the matter becomes identified, notify Audit and Investigations in line with the **anti-fraud statement** agreed at the full Council meeting in September 2003. Employees who feel unable to report matters to their line Manager are encouraged to contact the Audit and Investigations team directly.

7.4.2 In addition the Council has a Whistleblowing scheme, whereby employees can report their concerns in confidence. The Council has a statutory duty, under the Public Interest Disclosure Act 1998, to protect whistleblowers from recrimination. Details of the scheme can be found on the intranet or obtained from the Human Resources or Audit and Investigation teams.

7.4.3 Service Area and Corporate Directors must keep a service based register of gifts and gratuities received by officers.

#### 7.5 Money and Banking

7.5.1 Managers should ensure that adequate security arrangements exist for the holding of cash including controlling access to safes and other receptacles. At all times cash holdings should be kept to a minimum.

7.5.2 Each Manager shall maintain such bank accounts as he/she, in consultation with the Chief Finance Officer, considers necessary for the efficient operation of the Unit's finances. Unless specifically agreed by the Chief Finance Officer, bank accounts must be held in the name of the London Borough of Brent at the designated branch of the Council's bank. The Chief Finance Officer is responsible for opening and amending details of any bank account.

7.5.3 Managers are responsible for approving the authorised signatories to all bank accounts within their Unit and for ensuring that there is more than one signatory.

7.5.4 Arrangements should be made with the bank to provide statements of account, together with supporting documentation, at pre-determined intervals. To enable the Council's statutory accounts to be closed on a proper basis it is essential that a statement is obtained showing the position at the close of business on 31st March, or the last banking day prior to the 31st March.

7.5.5 Managers shall maintain a cash book and other records of all transactions passing through those bank accounts and shall ensure that such records are balanced and

reconciled at periods of no less than one month and that prompt action is taken on any discrepancy. A monthly bank reconciliation must be prepared as part of the financial reporting arrangements. Managers are responsible for the effective management of cash flow through their bank accounts.

- 7.5.6 Imprest and petty cash bank accounts must not be overdrawn at any time. Managers should make every effort to keep their bank account(s) in credit.

## **7.6 Money Laundering**

- 7.6.1 It is the responsibility of the Chief Finance Officer to put in place anti-money laundering policies.

- 7.6.2 All managers must report to the Chief Finance Officer any transactions including the suspected proceeds of crime or terrorist funds. Such transactions may seek to conceal, convert, transfer or remove criminal property or may facilitate the acquisition, retention, use or control of criminal property by or on behalf of another person.

- 7.6.3 Managers must also report any:

- high value cash transactions and employers should not accept cash payment in excess of £10,000 without the prior consent of their manager.
- instances where an employee hears of a potential transaction.

## **7.6 Property, Stock and Equipment**

- 7.6.1 Each Manager is responsible for maintaining the security at all times of all land, buildings, stores, equipment and other property under their control. Managers must ensure that land and buildings are adequately secured to prevent against unauthorised access or possession. Where Managers feel that special security arrangements are required they should consult the Chief Finance Officer.

- 7.6.2 Managers should annually review their use of property for the purpose of identifying surplus or inefficient properties.

- 7.6.3 The Chief Finance Officer shall maintain an appropriately valued asset register of all the Council's land and buildings. Managers should maintain an inventory, of valuable goods and equipment. The inventory, which should be kept in a secure place, should include a full description of the items including a note of any security markings and identification numbers etc. Managers should ensure that a comprehensive inventory check is carried out at intervals of no more than twelve months.

- 7.6.4 All assets should be held in the name of the Council and not in the name of individual officers or their post titles. It is important that valuable items are held in a secure environment commensurate with the value of the items and the cost of security. Large cash holdings should be kept in a suitable locked safe. Keys should be kept in a secure place or retained by the key-holder at all times. All officers should be aware that many documents such as cheque books, savings books, securities and order pads are the equivalent of cash and must be treated accordingly. It is not acceptable to leave safes unlocked during working hours or to leave cash holdings in unlocked desk drawers or filing cabinets. The Council's insurance policy may be invalidated if appropriate security measures are not taken.

- 7.6.5 The Head of Property and Asset Management shall ensure records are maintained of all properties owned or managed by the Council. Each Manager shall ensure that where commercial rents are payable to the Council a regular review of such rents is carried out to ensure they are set at an appropriate level. The terms of any leases should generally reflect market rents.
- 7.6.6 Each Manager shall be responsible for the care and custody of the stores held in their Unit. Stores are those items, which are financially a significant part of a Unit's activity and until issued, are included within the balance sheet. Each Manager shall make arrangements for a periodical test check of stores under their control by an independent person and shall ensure that all stores are checked at least once in each financial year. Each Manager shall provide the Chief Finance Officer with a certificate of stores, as at 31st March each year, for accounting purposes. Managers should periodically review the value of holdings of stores etc. in the light of turnover and cost.
- 7.6.7 Where it becomes necessary to hold property on behalf of a member of the public or another third party an itemised inventory shall be maintained of all such items. Each Manager shall make secure arrangements for such property and shall arrange for periodical checks by a person other than the employee responsible for the custody of the property.
- 7.6.8 Where officers are required to take assets or equipment home, this shall be properly recorded on the inventory.

## **7.8 Sale of Council Assets – General Requirements**

- 7.8.1 Managers must at all times have regard to the current scheme of management and ensure compliance with the requirements set out in the Technical Standard – Property and Land Disposals and IT standards for the disposal of IT equipment.
- 7.8.2 Managers need to demonstrate that if surplus or redundant stock, equipment or property assets are disposed of correct procedures have been followed, the best value for the Council obtained and the Council's interests protected.
- 7.8.2 Where land, buildings and equipment are to be disposed of, the Chief Finance Officer must be informed so that appropriate adjustments can be made to the accounts. A full description, sale value and date of completion must be submitted.
- 7.8.3 Managers who determine that any asset, other than computer hardware and software, with a resale value is surplus to requirements must record that fact in writing giving the reason. A disposal file should be held by all units responsible for assets, where this and all other relevant information concerning the disposal can be kept for future inspection. Disposals of computer equipment are dealt with in the Information Technology Technical Standards.
- 7.7.4 Any officer who determines that an asset is surplus to requirements or is involved in the disposal must never attempt to purchase it or take it for himself or herself. There should be a clear separation of duties here.
- 7.7.5 Managers must appoint a single person responsible for disposal whose name must be clearly identified in the disposal file. He or she should be instructed in writing on the disposal and will be accountable to the Council for ensuring that disposal is for the best price reasonably obtainable.

7.7.6 All paperwork in connection with the disposal should be kept in the disposal file. The file should be kept for a period of six years after the disposal. The file should include at least:

- the Manager's written record declaring the asset surplus, and instructions to the person appointed as responsible for the disposal;
- the independent valuation;
- the advertisement;
- the offers made; and
- the receipt.

7.7.7 In order to achieve the best price reasonably obtainable all assets for disposal must be subject to independent valuation and/or disposed of by way of either:

- subject to competitive bids following advertisement;
- subject to auction, or both.

## **7.8 Disposal of Equipment and Stock**

7.8.1 Where the estimated value of the asset is less than £500 an independent valuation alone is acceptable provided the person giving the valuation is qualified to judge, is clearly identified in the disposal file, and is properly independent.

7.8.2 All assets should be offered to other service units before members of staff or the public unless they have a value of £500 or more. Information about the assets available should be circulated to all Units and adequate time allowed for them to make a bid. A sale may proceed to any person offering at or above the valuation. If there is competition, the sale should be to the highest bidder.

7.8.3 Where the estimated value of the asset exceeds £500, it should be advertised in such a way as to facilitate bids by other service units and potential purchasers outside the Council. Sale should proceed by way of submission of written bids, which name the purchaser. The sale may proceed to the highest bidder, unless this does not reflect the proper value of the asset.

7.8.4 Official receipts must be issued for income received. Moneys must be received and properly accounted for by someone who has not been involved in the disposal.

7.8.5 Where the total amount received is less than £1,000 then this should accrue to the general balances of the unit. The treatment for amounts received in excess of this shall be determined by the Chief Finance Officer.

7.8.6 The Manager must ensure the disposal is recorded on the Unit's inventory.

## **7.9 Disposal of Land and Buildings**

7.9.1 All disposals must be agreed by the Council's Executive except in circumstances specified in the Council's Constitution in relation to certain leases. These exceptions do not extend to the disposal of freehold interests.

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**7.9.2 Reports to Executive must include:**

- why and how the proposed disposal satisfies any applicable consent.
- the original valuation of the property and the recommended disposal value. Any significant variances should be explained.
- any other terms relating to the disposal.
- the reasons for the disposal and any impact on Council services.
- consideration of any alternative uses for the asset including use by another service area.

7.9.3 The Chief Finance Officer shall be notified of any proposed disposal for entry in the Council's assets register and for referral to the Capital Board.

7.9.4 All disposal receipts are a corporate resource and must be paid into the Council's Corporate bank account. The allocation of these receipts shall be considered by the Capital Board. Managers should not assume any amounts for ring fencing as the re-investment of reserves shall be made on a prioritised basis according to the capital asset management plan.

7.9.5 All land and property disposal shall be led by and managed by the Head of Property and Asset Management.

**7.10 Treasury Management**

7.10.1 All borrowing shall be effected by the Chief Finance Officer, be in the name of the Council and in accordance with the Council's Treasury Policy statement and any Codes of Practice recommended by the relevant professional bodies or the Local Authority Associations. The Chief Finance Officer shall report periodically to the Council on all borrowing matters.

7.10.2 All investments shall be effected by the Chief Finance Officer or under arrangements approved by him/her. All investments shall be made in the name of the Council or in the name of nominees approved by the relevant committee. The Chief Finance Officer shall be responsible for the safe custody of securities held by or on behalf of the Council.

7.10.3 All Trust Funds held by the Council shall, where legally possible, be in the name of the Council. Officers acting as trustees by virtue of their official position shall deposit all securities and similar documents relating to the Trust under arrangements approved by the Chief Finance Officer unless the Trust Deed provides otherwise.

**7.11 Financial Implications within Reports**

7.11.1 Each Manager must consult with the Chief Finance Officer before reporting to the Executive, the Full Council, Highways Committee or any other committee of the Council, on any matter having a financial effect. The Chief Finance Officer may, where considered necessary, issue a concurrent report on matters requiring the Members' attention.

7.11.2 Each Manager must ensure that reports they present to Full Council, the Executive and Sub-Committee thereof contain a section on financial implications even if this is

to state that there are no direct implications from agreeing the recommendations. In cases where there are such implications these should be fully explained to Members.

7.11.3 The financial implications of any new proposal should set out:

- Its cost in the current and future financial years, and the basis on which that cost has been calculated;
- The proposed funding source, indicating either that it can be met from existing resources or what compensating savings will also have to be agreed; and
- If additional resources are required clear detail indicating what part of the cost is additional, and the policy and service implications of both not proceeding and funding the proposal from within existing resources.

7.11.4 The Chief Finance Officer must be consulted on all financial implications that may result in a reference for additional funding, and should be consulted on major financial issues where spending is being contained within budget.

7.11.5 Service areas must provide to Brent Finance Services a copy of a report containing financial implications for consultation and agreement in reasonable time to allow appropriate consideration. In all cases failure to provide financial implications in the prescribed manner means that expenditure approval has not been given, and any expenditure that takes place is unauthorised.

7.11.6 Where the Chief Finance Officer believes the financial implications of a report to be invalid he may:

- Require the report to be withdrawn;
- Supply alternative financial implications under his own name to be circulated to Members; or
- Indicate to Members the reasons why he believes the financial implications are incomplete and/or incorrect and the consequences of proceeding on that basis (i.e. that the expenditure would be unauthorised).

## **8. PROCUREMENT**

### **8.1 Contracts**

8.1.1 Officers shall comply with the Council's Standing Orders on Contracts (Part 3 of the Constitution). These contain the value bands for high, medium and low value contracts and the associated tender and evaluation requirements for each category of contract.

8.1.2 Officers must also have regard to the guidance in the Contract Procurement and Management Guidelines (the "*Blue Book*"). Any departure from it must be agreed with the relevant manager, notified to the Chief Finance Officer and the reasons for departure recorded in the contract file. Elements of this guidance set out legislative requirements and the Council's own rules. These elements are highlighted within the Guidance and compliance with this elements is mandatory in order to avoid the Council acting illegally and cannot be departed from in any circumstances. The guidelines cover the following topics:

- Legal and Regulatory Framework
- Procurement without Formal Tendering
- Formal Tendering
- Contract Management and Termination
- Works contracts using the JCT

8.1.3 The Chief Finance Officer shall make arrangements for a register to be maintained of all contracts awarded or entered into. Managers must ensure that they comply with these requirements.

8.1.4 The Service Area and Corporate Directors must ensure that adequate monitoring and review arrangements are in place to cover contracts for externally provided services.

## 9. RETENTION OF DOCUMENTS

9.1 The following items must be retained indefinitely or during the whole of the Council's possession of the relevant asset and for **twelve** years afterwards:

- Property deeds, contracts and leases relating to land and buildings in the ownership or occupation of the Council.
- Share certificates, stocks, bonds and other securities together with any appropriate contracts of purchase or sale.
- Guarantees, indemnities, insurance policies.

9.2 All other contracts carried out under the seal of the Council must be retained for **twelve** years after completion of the contract.

9.3 Local authorities are required by statute to retain all accounting documents for a minimum of six years. The statute of limitations for contracts not under seal applies for six years after completion of the contract. In addition Inland Revenue and Customs and Excise may inspect documents for periods of six years. Officers can be held personally liable where documents required are not available. In order to give effect to these requirements the following documents must be retained for a minimum of **six** years:

- All accounting documents including invoices, contract certificates, paid cheques, bank statements;
- Debtor accounts, income receipts and associated documents;
- All contracts not under seal for works, goods or services (six years after completion of the contract);
- All tender and related documents (six years after completion of the contract);
- Details of salaries, wages and superannuation payments including particulars of pay calculations, copy payslips, P60 documents.

- 9.4 Audit and Investigations should be consulted before Managers copy documents not previously copied or use a new method to ensure such methods would be accepted for evidence purposes.
- 9.5 Managers shall nominate an officer to make safe arrangements for the storage and review of information. All records must be properly indexed to allow efficient recovery.
- 9.6 Managers must also consider the requirements of the Freedom of Information Act 2000 in determining their local retention policies.

## Scheme of Transfers and Virements under Standing Order 17(a)

### Definitions

Unless specified to the contrary within the specific paragraphs, each of the following words within this Scheme of Transfers and Virements has the precise meaning assigned to it in this scheme.

**Accounts** – For the purposes of this scheme, the Council shall be considered to be operating three “accounts” – the General Fund, the Housing Revenue Account, and the Capital Programme.

**Budget** – The Council’s budget agreed by Full Council for a financial year is set at a Council meeting at the same time as the Council Tax levels are set for the financial year and is amended from time to time in accordance with this scheme or other relevant powers.

The budget includes planned expenditure and income for the Accounts, as well as transfers into and out of Reserves and Provisions.

The General Fund budget for each financial year contains the policy proposals included in the Service Development Plans, as amended by the Service Area Budget – Savings Appendix of the Report and summarised in the General Fund Budget Summary Appendix of the Report. The matrices in the Service Area Budget Summary Appendix of the Report show budget heads within each service area.

The Housing Revenue Account budget for each financial year is set out in the Housing Revenue Account Appendix of the Report.

The Capital Programme is set out in Capital Programme Forecast Appendix of the Report. This is set in the context of the Prudential limits set out in of the Report.

Full Council may amend the Budget at any time during the financial year, and the amended budget will replace the budget set at the budget setting Council meeting held before the start of the financial year .

**Reserves and Provisions** – The Council sets aside amounts from its Accounts from time to time to meet potential future specific or general liabilities or risks. Collectively the cumulative values of these amounts are called the Council’s Reserves and Provisions.

The values of Reserves and Provisions which are subject to the Transfer provisions of this scheme are those that appeared in the Council’s accounts as at 31<sup>st</sup> March of the previous financial year in respect of that year (for example, the values for 2004/5 were the values for 2003/4 as they appeared in the accounts as at 31<sup>st</sup> March 2004) as amended by appropriations contained in the other elements of the budget.

**Reserves and Provisions Established by the Director of Finance and Corporate Resources** - The Director of Finance and Corporate Resources may agree that reserves be established by a Service Area at the end of the Financial Year for a specified purpose, where the Service Area has sought permission from the Director of Finance and Corporate Resources to apply some of all of that reserve to expenditure for that specified purpose in the next Financial Year and the Director of Finance and Corporate Resources is of the opinion that this is a reasonable and prudent use of the resources.

**The Report** - References to the “Report” are references to the “Budget and Council Tax” report as agreed by Full Council at the budget setting meeting held to set the budget before the start of the current financial year.

**Virements** – A virement is an increase in any budget or budgets or part of a budget or budgets that is matched by an equal and opposite decrease in any other budget or budgets or part of budgets within the same Account, such that when the total changes are aggregated the net change across all budgets within that Account is zero.

**Schedule of Earmarked Reserves and Provisions** - the Schedule of Earmarked Reserves and Provisions approved by Full Council at the budget setting meeting held before the start of the financial year.

**Transfers** – For the purposes of this scheme, a Transfer is a movement of funds from any reserve, provision or Account to any other reserve, provision or Account.

**New Spending** – Any increase in gross expenditure or reduction in gross income above the aggregates included in each Account is considered to be “*new spending*” for the purposes of this scheme.

**Earmarked Supported Borrowing** – A permission to borrow issued by a Department of State limited to a specific purpose and coming with a commitment to include the financing charges within the calculation of Revenue Support Grant or Housing Subsidy.

## GENERAL PROVISION

1. Except where explicitly stated to the contrary, no virement, transfer, or new spending is authorised by this scheme if it is in conflict with the Policy Framework or if it conflicts with anything specifically agreed by Full Council as part of the budget setting process other than by a decision of Full Council.

## TRANSFERS

### General

2. Spending on any Account above that allowed for in the Budget, or a shortfall in income below that estimated in the Budget will result in a charge to Reserves unless compensating changes are made. This follows from the Accounting Code of Practice, which has Statutory force. It is acknowledged that such transfers may result in a conflict with the Policy Framework. Statute provides procedures for dealing with such transfers, especially where the resultant transfers exhaust Reserves and Provisions. This scheme does not deal with these transfers, although limits are placed on the Executive’s action to minimise the chance that such circumstances arise.
3. In certain circumstances where such overspends on Accounts arise, there is a choice as to which Reserve the charge should be made. There may also be circumstances in which Provisions can be used to prevent Reserves being exhausted. These are matters that are reserved to Full Council.

### Earmarked Reserves and Provisions for Specified Purposes

4. Certain reserves and provisions have been established to aid the smooth running of the Council’s finances, and it will be normal to charge costs to those reserves and provisions subject to financial regulations and local procedures and policies. These

are listed in Part A of the Schedule of Earmarked Reserves and Provisions, and officers may make transfers from these reserves and provisions up to the amounts in them for the specified purposes.

5. Part B of the Schedule of Earmarked Reserves and Provisions lists those other reserves and provisions from which transfers may only be made on the authority of the Executive, up to the limits of the amounts in them and for the purposes for which they were established.
6. Transfers from Reserves and Provisions Established by the Director of Finance and Corporate Resources may be made by the Director of Finance and Corporate Resources up to the amount of £250k. Transfers of any greater amount may only be made on the authority of the Executive.
7. Transfers from Reserves and Provisions not included in the Schedule of Earmarked Reserves and Provisions or transfers from Reserves and Provisions for purposes other than those for which they were established require the approval of Full Council, unless otherwise allowed by this scheme.

#### **Executive Powers**

8. The Executive shall have the power to approve any Transfer that does not result in New Spending across Accounts, on the recommendation of the Director of Finance and Corporate Resources, for the purposes of the efficient management of the Council's affairs.
9. For the purposes of maintaining Reserves at a prudent level (as determined by the Executive on advice from the Director of Finance and Corporate Resources,), the Executive may make any Transfer from any Account to the appropriate Reserve if there is a reported saving in that Account.
10. The Executive may make one or more Transfers up to a total of £500,000 in the financial year from any Reserve to any appropriate Account for the purposes of New Spending provided that:
  - (a) Reserves are maintained at a prudent level after considering the effect of the Transfer and any risks that fall upon Reserves;
  - (b) The Account to which the Transfer is to be made is not immediately prior to making the transfer forecast to overspend; and
  - (c) The New Spending is for an objective contained within the Policy Framework, the Corporate Strategy, a legislative requirement or a contractual obligation.

#### **VIREMENTS – GENERAL FUND**

##### **Officers**

11. Officers may make any virement within a budget line in a service area (i.e. within any one line in the Service Area Budget Summary Appendix of the Report).
12. Subject to paragraph 12, officers may agree any virement within their area of responsibility which:

- (a) Is designed to keep function and finance together (as determined by the Director of Finance and Corporate Resources); or
  - (b) Increases the budget of a unit that is overspending by reducing that of a unit that is underspending.
13. Virements in paragraph 11 may only be agreed by officers provided that:
- (a) They do not result in a commitment which would itself lead to an increased overspend in the current financial year or give rise to unfunded expenditure in future years;
  - (b) They are consistent with the Service Development Plan;
  - (c) They do not conflict with any prior decision made or policy or plan or strategy adopted by the Executive; and
  - (d) They are reported to the Director of Finance and Corporate Resources.
14. The Director of Finance and Corporate Resources may agree any virement between areas of responsibility of different Officers whose effect falls within the criteria set out in paragraph 11 subject to the constraints in paragraph 12(a) to 12(c).

**Executive**

15. Subject to paragraph 15, the Executive may agree any virement either within or between any Service Area which:
- (a) Falls within the purposes of paragraph 11;
  - (b) Helps to maintain prudent levels of Reserves; or
  - (c) Helps to keep expenditure within the overall budget totals; or
  - (d) Finances new initiatives supporting the Policy Framework or the Corporate Strategy but not explicitly included in the Service Development Plan and Budget.
16. The Executive may only agree virements under paragraph 14 if it has received advice from the Director of Finance and Corporate Resources that after the virement:
- (a) Reserves remain at prudent levels; and
  - (b) No unfunded expenditure commitments arise in future years.

**New Spending**

17. Where additional resources arise during the year and these are limited for a specific use (e.g. because of grant conditions), then officers may commit the New Spending provided that:
- (a) There is no unfunded spending commitment for future years;
  - (b) Any match funding for the current year is met from identified underspends; and

- (c) The Director of Finance and Corporate Resources certifies that the criteria in paragraph 15 apply.
18. Where additional resources arising from additional income, grant not limited for a specific use, or underspends of budgets are identified, then the Executive may agree New Spending, subject to the criteria in paragraphs 14 and 15.

## **VIREMENTS - CAPITAL PROGRAMME**

### **General**

- 19. The Capital Programme consists of individual projects and sums allocated for work of a particular type. Financial Regulations dictate that the latter type of expenditure can generally only be spent after approval by Executive of project schemes within that type.
- 20. Capital projects often span more than one year, and include provisions for contingencies, provisional sums and the like. This generates a degree of flexibility available for managing the overall programme and this scheme takes advantage of that flexibility.
- 21. Many funding streams for Capital projects are limited to particular types of projects. Nothing in this scheme allows virement between projects if the funding stream cannot be vired because of some other condition or limitation restricting or precluding a virement.
- 22. The Capital Programme is funded by a combination of capital receipts, grants and other direct external contributions and borrowing. The total amount of permitted borrowing can be varied during the financial year under the terms of Local Government Act 2003 and relevant regulations. Apart from any contingencies agreed in the Budget, this scheme does not permit any increase in the level of permitted borrowing beyond that agreed in the Budget. Such increases require approval by Full Council in the context of advice from the Director of Finance and Corporate Resources and subject to CIPFA's *"The Prudential Code for Capital Finance in Local Authorities."*

### **Officers**

- 23. Officers should make such virements as are necessary to ensure that the overall capital spend is kept within the sums allocated for that purpose within their area of responsibility provided that:
  - (a) They do not stop or significantly change projects approved by Full Council or the Executive except where as part of project approval the Full Council or Executive has delegated authority to officers to revise or reschedule such projects;
  - (b) They do not commit expenditure beyond resources available in future years; and
  - (c) They report changes to the Director of Finance and Corporate Resources.

**Executive**

24. The Executive may make such virements within the Capital Programme as are necessary to ensure that overall spending is within the resources available, and it can bring forward, delay or stop projects as necessary to achieve this.
25. The Executive may vire funding from one set of capital projects to another without limit provided that:
  - (a) Reductions are not made to funding of projects below the level that is contractually committed;
  - (b) Spending commitments in future years are not made beyond the resources available to fund them.

**New Spending**

26. Where new Capital resources, not limited to specific purposes, are identified during the year, the Executive may commit new expenditure from the reserve list, where such a list exists, in its own priority order providing that:
  - (a) The Capital Programme is not projected to overspend its resources;
  - (b) Spending commitments in future years are not made beyond the resources available to fund them.
27. Where new Capital resources, not limited to specific purposes, are identified during the year, and the reserve list has been fully funded, the Executive may commit new expenditure on other capital schemes provided that:
  - (a) The Capital Programme is not projected to overspend its resources;
  - (b) Spending commitments in future years are not made beyond the resources available to fund them;
  - (c) The new spending meets objectives set out in the Policy Framework or the Corporate Strategy.
28. Where new Capital resources, limited for use for a specific purpose, are identified during the year that do not require matched funding, the Executive may commit new expenditure provided that:
  - (a) Spending commitments in future years are not made beyond the resources available to fund them;
  - (b) If the new funding is by Supplementary Credit Approval, a report is received from the Director of Finance and Corporate Resources indicating that the cost of the new borrowing is affordable;
  - (c) The new spending meets objectives set out in the Policy Framework or the Corporate Strategy.
29. Where new Capital resources, limited for use for a specific purpose, are identified during the year that do require matched funding, the Executive may commit new expenditure on that match funding provided that:

- (a) The Reserved List, where such a list exists, has been fully committed and there are sufficient capital resources available to meet the match funding requirements directly or by virement, OR additional revenue resources have been identified to meet the match funding requirements;
- (b) Spending commitments in future years are not made beyond the resources available to fund them.

#### **VIREMENTS – HOUSING REVENUE ACCOUNT**

- 30. The Director of Housing and Community Care may make any virements necessary for the efficient running of the Housing Revenue Account within the Account, including the use of revenue resources for capital purposes, provided that:
  - (a) Spending commitments in future years are not made beyond the resources available to fund them; and
  - (b) The changes are reported to the Director of Finance and Corporate Resources.

#### **REPORTING ARRANGEMENTS**

- 31. Subject to paragraph 30, all Transfers, Virements and New Spending are to be reported to Full Council whether or not they require Full Council's approval. Normally this will be done by means of the regular expenditure monitoring reports made by the Director of Finance and Corporate Resources. The reports will classify changes by whether Officer, Executive or Full Council approval was required.
- 32. Virements within one line of the Service Area Budget Summary Appendix of the Report, Transfers falling within Part A of the Schedule of Earmarked Reserves and Provisions and Virements within the HRA will not normally be reported to Full Council but will be reported if the Director of Finance and Corporate Resources or the monitoring officers consider that a report should be submitted.
- 33. Any failure to report to or notify the Director of Finance and Corporate Resources on any matter as required under this scheme will not invalidate the decision by virtue of that failure to report or notify alone.