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CHIEF EXECUTIVE'S OFFICE
CHIEF EXECUTIVE
Fiona Marshall

13 December 2017

Dear Councillor

You are summoned to attend the meeting of the;

MALDON DISTRICT COUNCIL

on **THURSDAY 21 DECEMBER 2017** at **7.30 pm**.

in the Council Chamber. Maldon District Council Offices, Princes Road, Maldon.

A copy of the agenda is attached.

Yours faithfully

A handwritten signature in black ink, reading "F. R. Marshall". The signature is written in a cursive style and is enclosed within a hand-drawn oval.

Chief Executive

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AGENDA COUNCIL

THURSDAY 21 DECEMBER 2017

1. **Chairman's Notices**
2. **Apologies for Absence**
3. **Minutes - 2 November 2017** (Pages 7 - 20)

To confirm the Minutes of the meeting of the Council held on 2 November 2017 (copy enclosed).

4. **Declarations of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6 - 8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **Public Questions**

To receive questions from members of the public, of which prior notification in writing has been received (no later than noon on the Tuesday prior to the day of the meeting).

6. **Chairman's Announcements**

7. **Recommendation of Committees for Decision by the Council** (Pages 21 - 238)

- (i) To consider the report of the Director of Resources (copy enclosed).

Please note: Where appropriate this report contains links to the relevant Committee agenda, reports and Minutes.

- (ii) **Minutes of meetings of Committees**

To note that since the last meeting of the Council, up until Wednesday 13 December 2017 (Council agenda dispatch) the following Committees have met, and to receive any questions in accordance with Council and Committee Procedure Rule 6(2).

Minutes reported to the last meeting and now published:	Minute Numbers	
Joint Standards Committee	19 October	410 - 415

Minutes published:		Minute Numbers
North Western Area Planning Committee	30 October	416 – 427
South Eastern Area Planning Committee	6 November	445 - 454
Overview and Scrutiny Committee (acting as the Crime and Disorder Committee)	8 November	455 – 459
Central Area Planning Committee	15 November	460 – 463
Planning and Licensing Committee	16 November	464 – 472
Community Services Committee	21 November	473 - 481
North Western Area Planning Committee	27 November	488 - 493

Minutes NOT finalised for publication:	
Overview and Scrutiny Committee	22 November
Finance and Corporate Services Committee *	28 November
South Eastern Area Planning Committee	4 December
Audit Committee	7 December

* Please see item (i) above as these Minutes contain recommendations to the Council.

8. **Questions in accordance with Procedure Rule 6(3) of which notice has been given**
9. **Maldon District Design Guide - Adoption as Supplementary Planning Document**
(Pages 239 - 248)

To consider the report of the Chief Executive, (copy enclosed).
10. **Committee Structure Review - Proposed Consequential Constitutional Changes**
(Pages 409 - 412)

To consider the report of the Chief Executive, (copy enclosed).
11. **Investigating and Disciplinary Panel** (Pages 413 - 414)

To consider the report of the Chief Executive, (copy enclosed).
12. **Schedule of Meetings 2018 / 19** (Pages 415 - 418)

To consider the report of the Director of Resources, (copy enclosed).
13. **Questions to the Leader of the Council in accordance with Procedure Rule 1(3)(m)**
14. **Business by reason of special circumstances considered by the Chairman to be urgent**

NOTICES

Sound Recording of Meeting

Please note that the Council will be recording any part of this meeting held in open session for subsequent publication on the Council's website. At the start of the meeting an announcement will be made about the sound recording. Members of the public attending the meeting with a view to speaking are deemed to be giving permission to be included in the recording.

Fire

In event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety

Please be advised of the different levels of flooring within the Council Chamber. There are steps behind the main horseshoe as well as to the side of the room.

Closed-Circuit Television (CCTV)

This meeting is being monitored and recorded by CCTV.

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**MINUTES of
COUNCIL
2 NOVEMBER 2017**

PRESENT

Chairman	Councillor H M Bass
Vice-Chairman	Councillor N R Pudney
Councillors	Mrs B F Acevedo, E L Bamford, B S Beale MBE, R G Boyce MBE, A T Cain, Mrs P A Channer, CC, R P F Dewick, I E Dobson, M F L Durham, CC, Mrs H E Elliott, P G L Elliott, A S Fluker, Mrs B D Harker, B E Harker, M S Heard, M W Helm, Miss M R Lewis, M R Pearlman, R Pratt, CC, S J Savage, Mrs N G F Shaughnessy, Rev. A E J Shrimpton, A K M St. Joseph, Mrs M E Thompson and Miss S White

531. CHAIRMAN'S NOTICES

The Chairman referred the recent passing of David Fisher OBE a Member of the Council from 1974 to 1987 and Chairman of the Council from 1983 to 1985. The Council confirmed that it wished the Chairman to send a letter of condolence to his widow. The Chairman also advised the Council of the recent death of Stephen Packham, Chief Executive of this Council from 2001 to 2004 and former Urban District Councillor P H Green. All present then stood for a few moments of silent tribute.

The Chairman then referred to the notices printed on the agenda.

532. APOLOGIES FOR ABSENCE

Apologies for absence were received from J P F Archer, Miss A M Beale and D M Sismey.

533. MINUTES - 7 SEPTEMBER 2017

RESOLVED that the Minutes of the Council held on 7 September 2017 be approved and confirmed.

534. MINUTES - 21 SEPTEMBER 2017

RESOLVED

- (i) that the Minutes of the extraordinary meeting of the Council held on 21 September 2017 be received.

Minute 462 – RES/MAL/17/00712 – Land Holloway Road, Heybridge, Essex

Councillor B E Harker advised that the last but one paragraph of this Minute should refer to Councillor B E Harker and not B D. This was noted.

RESOLVED

- (ii) that subject to the above amendment, the Minutes of the extraordinary meeting of the Council held on 21 September 2017 be adopted.

535. DECLARATIONS OF INTEREST

Councillor S J Savage declared a non-pecuniary interest in Agenda Item 6 – Public Questions regarding the Post Office as he had a standing order. He also declared he had no interest in Agenda Item 16 – Llys Helig Update as in spite of the Minutes and the tabled addendum which was confidential he no longer had an interest to declare.

Councillor Mrs P A Channer declared a non-pecuniary interest as a Member of Essex County Council in any matters pertinent to them. She also declared an interest in Agenda Item 16 – Llys Helig Update as a Member of the Crouch Harbour Advisory Committee and advised that she would seek further clarification on this interest when the Council reached that matter of business.

Councillor R Pratt declared a non-pecuniary interest as a Member of Essex County Council in any matters pertinent to them.

Councillor N R Pudney declared a non-pecuniary interest in Agenda Item 16 – Llys Helig Update as he sat on the Crouch Harbour Authority Advisory Committee on behalf of Burnham-on-Crouch Town Council.

Councillor A S Fluker declared in the interest of openness and transparency in relation to Agenda Items 8 – Recommendation of Committees for Decision by the Council and 9 – Petition to Reinstate the Marine Lake, Promenade Park, Maldon he was a Maldon Harbour Improvement Commissioner.

536. PUBLIC QUESTIONS

In accordance with Procedure Rule 1(3)(e) and the Council's Public Question Time and Participation at Council and Committee Meetings Scheme, the Leader of the Council referred to three questions from Mr Tom Kelly of which prior notification had been given. A copy of the questions and prepared responses from the Leader of the Council were circulated to all Members and those in attendance at the meeting.

Mr Kelly read out his questions.

Question one:

In view of recent problems, can I ask if finance is available, assured, and guaranteed for a replacement HOIST at Blackwater Leisure Centre.?

Response:

The Council is currently consulting with Baracuda's Swimming Club and the Council's leisure management provider, Places for People Leisure Limited, for the replacement of the hoist at the Blackwater Leisure Centre. This matter will be considered at the November meeting of the Finance and Corporate Services Committee.

Question two:

Without Consultation. with the business owner or the public, Post Office Ltd, partly owned by Govt, has withdrawn years of the sub post office supplying collectors and the public with New Issues and Pictorial Sets of Commemorative Events (e.g. Queen's Jubilee,) Themes such as birds, castles etc etc, on the FALSE basis of 1. lack of counter space (unchanged after revamp) 2. When challenged about 1., then claimed "Lack of Footfall". CAN I ASK THAT MDC MAKE REPRESENTATIONS AT GOVT LEVEL. PLEASE, as this policy damages both the Revenue of the business and my personal COLLECTION?

Response:

Post Office Counters is a private company and therefore the Council has no influence over what is sold in Post Offices. However, Commemorative covers and special additions are available online from the Post Office Shop.

Post Office Limited comprises of 11,000 branches and it was suggested that Mr Kelly wrote to Paula Vennells, Chief Executive.

Question Three:

As the Chairman of Mid Essex Clinical Commissioning Group considers challenging on Finance as Political, and our local NHS receives less funding than entitled under Govt Criteria, leading to a historical deficit of £millions, should the Govt not be asked to create a "level playing field" and allow an NHS Precept on same basis as exists for Local Govt, Fire Service etc etc?"

Response:

The Council has previously written to Government to challenge the inconsistent funding per capita paid to Clinical Commissioning Groups (CCGs) across the country and the fact that Mid Essex has a recognised shortfall compared to neighbouring CCGs.

I agree that this is a subject that should continue to raise with our Member of Parliament (MP) to seek a level playing field and I will raise with our MP when we meet him tomorrow.

537. CHAIRMAN'S ANNOUNCEMENTS

The Chairman referred to a number of events he and the Vice-Chairman had attended.

Members were reminded of the Chairman's Business Awards and the Chairman requested recommendations from Members for the following four categories:

- Young Entrepreneur of the Year Award
- New Business of the Year Award
- Fast Track Business of the Year Award
- Best Established Business of the Year Award

The Chairman advised that he had attended a number of events which are detailed below and thanked the Vice-Chairman for attending an event on his behalf.

08/09/2017	High Sherrif Garden Party, Walcotte Hall
09/09/2017	Little Braxted Fete - no further info
13/09/2017	Burnham on Crouch Chamber of Commerce Funding for Business Event
14/09/2017	Action for Family Carers Coffee and Cake, visit Garden and Day Centre
15/09/2017	Visit to Blackwater Printing, Maldon
15/09/2017	ECC Chairman's Civic Reception
16/11/2017	Opening of the Tolleshunt Major newly refub parish rooms
19/09/2017	Launch of Queen Mother Memorial Shelter, Friends of Maldon Prom
20/09/2017	Grenfell cheque presentation - Green Recycling
24/09/2017	Car Rally - The Warren - no further info
26/09/2017	Woodham Walter Parish Council Village Design Statement Launch Reception
27/09/2017	Knightswood Visit - Dengie Project Trust
30/09/2017	Queens' Tea - Burnham Carnival - 4pm Royal Corinthian Yacht Club
07/10/2017	Saltmarsh 75 - be at Marsh Farm - South Woodham
08/10/2017	High Sheriff Justice Service
11/10/2017	Aquila Ground Breaking Works - Blackwater Retail Park
12/10/2017	Visit to Tollesbury Businesses - Gibbons Engineering Group Ltd, Volspec
18/10/2017	Visit to Local Businesses - Chelmer and Blackwater Navigation, Museum of Power, Combined Military Services Museum
20/10/2017	Maldon Shedders Event
24/10/2017	Epping Forest Lunch and Trip on the Epping Ongar Railway - be there for 9.30am
25/10/2017	Maldon District Sports Awards <i>Vice-Chairman</i>
02/11/2017	Visit to local businesses - Maldon Brewery Co., Heritage Marine

538. RECOMMENDATION OF COMMITTEES FOR DECISION BY THE COUNCIL

(a) REPORT OF THE CHIEF EXECUTIVE

The Council considered the report of the Chief Executive presenting recommendations of Committees to the Council.

Planning and Licensing Committee – 14 September 2017

Historic Revival Waterfront Project Outcomes

RESOLVED

- (i) that the Council's Corporate Projects Task and Finish Working Group be requested to manage the next steps of the Historic Revival Waterfront Project as set detailed in Appendices 1 and 2 to the report and below:

The Consultants recommendations are set out in the following list. The main project should be an application to the Heritage Lottery Fund Parks for the People fund for work that involves:

- restoring the qualities of the historic Edwardian park.
- creating a park café with new toilets for the public and changing rooms for the splash park to replace the current toilet block. We (the consultants) think that it would probably be optimal for it to incorporate a flexible space that can incorporate community events of different type and functions such as weddings. It would probably be a popular facility and offer a good return on investment.
- improving the appearance of the kiosks (if not replaced) and creating a more attractive outdoor seating area in their vicinity.
- extending and modernising Maldon District Museum, and employing a curator – manager. Maldon District Council (MDC) should help the museum to take a wider role in conserving and telling the whole Maldon story, including the maritime heritage.
- replacing the public realm at Hythe Quay with surfacing that is more attractive and in keeping with the heritage, and reduces the impact of parking, while not compromising the operation of the businesses there.
- adapting the Bailiff's workshop and classroom occupied by the Gig Club to provide flexible ground floor space that can be used for activities of different sort.
- providing a better interpretation and wayfinding system, including panels that tell the story of the Battle of Maldon and Maldon Salt. This would ideally extend to the town centre and along the river.

Maldon and Heybridge Central Area Masterplan – Adoption as Supplementary Planning Document

Councillor Mrs P A Channer, Chairman of the Planning and Licensing Committee proposed the following amendments to the Masterplan (Appendix 3 to the report) which were duly agreed.

Page Number (Masterplan document)	Page Number (Agenda pack)	Location of amendment	Amendment
78	128	Project 7 (detailed in table)	Wording to be replaced with ‘delivery of improved connections from Heybridge Creek’
78	128	Project 4 (detailed in table)	Removal of: <ul style="list-style-type: none"> • New seasonal food market • Establish market management regime in consultation with local businesses
17	67	After second paragraph of section 3.2 – Maldon and Heybridge Central Area Masterplan Framework	Addition of the following: ‘Diagrams sketches and images are for indicative purposes only.’
Front cover	51	Front Cover	Councillor Mrs Channer advised that once agreed would become a Maldon District Council document and therefore the follow amendments were required: <ul style="list-style-type: none"> • Removal of reference to the consultants used • Update the date shown • Addition of reference to the document being a Supplementary Planning document • Addition of the Council’s logo
79	129	Note – bottom right hand side of the page	Amendment to read ‘Note: S106 (or potentially CIL) – to seek...’.

It was further agreed that the Chairman of the Planning and Licensing Committee and Officers be authorised to take forward any further minor amendments as part of the final proof reading process.

In response to a comment regarding the document referring to the battle site in Maldon and it being unclear as to where this was, the Chairman advised that the Chairman of the Planning and Licensing Committee would consider this as part of the final proof reading.

RESOLVED

- (ii) That the Chairman of the Planning and Licensing Committee and Officers be authorised to take forward any further minor amendments as part of the final proof reading process of the Maldon and Heybridge Central Area Masterplan;
- (iii) that subject to (ii) and the above amendments the Maldon and Heybridge Central Area Masterplan be adopted.

Code of Good Practice and Guidance on the Conduct of Planning Matters

Councillor Mrs Channer proposed that the Code of Practice and Guidance on the Conduct of Planning Matters (Appendix 4 to the report) be withdrawn from consideration by the Council and she highlighted a problem with the tracked changes within the document. She suggested that this be deferred to the Planning and Licensing Committee and then brought back to the December meeting of the Council. This proposal was duly seconded.

As the Minute relating this item of business contained a number of recommendations Councillor Mrs Channer clarified that she was proposing that under recommendation (ii) the matters relating to ‘Planning and Licensing Committee Scheme of Delegation’ and ‘Terms of Reference of Area Planning Committees’ be agreed by the Council and the other recommendations be pulled and brought back to a future meeting of the Council following further consideration by the Planning and Licensing Committee. This was duly seconded and agreed.

RESOLVED

- (iv) that the changes to constitutional arrangements as set out below be agreed:

Planning and Licensing Committee Scheme of Delegation To the Chief Executive (Director) –

In consultation with the Chairman of the Committee, to review the accuracy of agreed planning conditions due to the passage of time between the Committee decision and the issue of a decision notice consequent upon the completion of a S106 planning obligation.

Terms of Reference of Area Planning Committees

Delete provision (a) – To consider and report to the Council
Amend existing para. (b)(i)11 by the deletion of “The approval of

Planning Enforcement (please note: addendum incorrectly titled Council Constitution – Planning Applications for Development of Strategic Interest)

Councillor Mrs Channer proposed that this document be approved but with a proviso for further proof reading and to ensure that all amendments requested by the Overview and Scrutiny Committee had been incorporated. This was agreed.

RESOLVED

- (v) That subject to further proof reading and any further minor amendment, the revised Planning Enforcement Policy, Practice and Guidance be adopted.

Finance and Corporate Services Committee – 26 September 2017

Asset Management Working Group

Councillor I E Dobson, Vice-Chairman of the Finance and Corporate Services Committee, proposed the following amendments to the recommendations set out in the report:

- (i) that the Asset Management Working Group be re-formed with immediate ~~effect in accordance with the~~ and its Terms of Reference (attached at **APPENDIX 5**) be agreed ~~by the Members of the Working Group at its first scheduled meeting;~~
- (ii) ~~that subject to (i) above the Council's constitution be amended to allow meetings of the Asset Management Working Group to take place in the evening;~~
- (iii) that a copy of the report considered by the Finance and Corporate Services Committee on 23 June 2015 which led to the resolution to disband the Asset Management Working Group be circulated to all Members.

Councillor Dobson then referred to the Leader of the Council who outlined the Membership of the Asset Management Working Group as follows.

- Leader of the Council
- Deputy Leader of the Council
- From the Community Services Committee:
 - Councillor R G Boyce MBE (Chairman of the Committee)
 - Councillor E L Bamford
- From the Finance and Corporate Services Committee:
 - Councillor D M Sismey (Chairman of the Committee)
 - Councillor I E Dobson (Vice-Chairman of the Committee)
- From the Planning and Licensing Committee:
 - Councillor Mrs P A Channer CC (Chairman of the Committee)
 - Councillor A K M St. Joseph (Vice-Chairman of the Committee)

These proposed changes were duly seconded and agreed.

RESOLVED

- (vi) that the Asset Management Working Group be re-formed with immediate effect and its Terms of Reference be agreed by the Members of the Working Group at its first scheduled meeting;
- (vii) that the Membership of the Asset Management Working Group be agrees as follows:
 - Leader of the Council
 - Deputy Leader of the Council
 - From the Community Services Committee:
 - Councillor R G Boyce MBE (Chairman of the Committee)
 - Councillor E L Bamford

- From the Finance and Corporate Services Committee:
 - Councillor D M Sismey (Chairman of the Committee)
 - Councillor I E Dobson (Vice-Chairman of the Committee)
- From the Planning and Licensing Committee:
 - Councillor Mrs P A Channer CC (Chairman of the Committee)
 - Councillor A K M St. Joseph (Vice-Chairman of the Committee)

(viii) that a copy of the report considered by the Finance and Corporate Services Committee on 23 June 2015 which led to the resolution to disband the Asset Management Working Group be circulated to all Members.

(b) MINUTES OF MEETINGS OF COMMITTEES

The Council noted the list of Committees that had met before and since the last meeting of the Council, up until Wednesday 25 October 2017 for which Minutes had been published.

539. PETITION TO REINSTATE THE MARINE LAKE, PROMENADE PARK, MALDON

The Council considered the report of the Director of Customers and Community advising of a petition submitted by the Prom Swimming Committee calling for the reinstatement of the former Marine Lake at Promenade Park, Maldon.

Ms M Ellis, representing the Prom Swimming Committee, presented the petition and provided the Council with detailed information regarding reinstatement of the Marine Lake including:

- the number of signatures gathered;
- a history of the lake;
- supporting documents which had been circulated to the Council;
- how the change would reduce risks relating to legionella and other diseases;
- revenue streams which had been identified.

The Leader of the Council responded, highlighting a number of points set out in the report and how this had been brought before the Council for debate in light of the strong public interest and social medial and press coverage. He advised Members that the Council needed to consider the implications of changing the ornamental lake and creating a swimming and boating facility at Promenade Park. The Leader proposed that the recommendations as set out the report be agreed and this was duly seconded.

Councillor R G Boyce advised the Council wished to move another motion to the recommendations outlined in the report and outlined the following reasons for urging the Council the reject the petition:

- the lake in its current format was a major ecological asset to the Council and enjoyed by upwards of half a million people a year;
- reinstatement of the lake would result in the creation of an artificial lake;

- it was not practicable to fill and empty the lake – he referred to when previously a swimming lake it had taken six or seven days to empty and refill it.

A lengthy debate ensued. During which the Director of Customers and Community and Solicitor provided Members with information regarding the Council’s statutory duty of care under the Occupier Liability Act. The Solicitor advised that by creating the lake this would have a greater degree of responsibility and he felt that this would be greater than its ordinary statutory duty.

In accordance with Procedure Rule No. 13 (3) Councillor M F L Durham requested a recorded vote. This was duly seconded.

The Chairman then put the recommendations set out in the report and the voting was as follows:

For the recommendation:

Councillors A T Cain, M F L Durham and Rev. A E J Shrimpton.

Against the recommendation:

Councillors Mrs B F Acevedo, E L Bamford, B S Beale, R G Boyce, Mrs P A Channer, R P F Dewick, I E Dobson, Mrs H E Elliot, P G L Elliott, A S Fluker, Mrs B D Harker, B E Harker, M W Helm, Miss M E Lewis, M R Pearlman, R Pratt, N R Pudney, S J Savage, Mrs N G F Shaughnessy, A K M St. Joseph, Mrs M E Thompson and Miss S White.

Abstentions:

Councillors H M Bass and M S Heard.

This motion was declared lost.

Councillor R G Boyce then proposed that the Council not take the action requested by the Petition (to reinstate Maldon Prom Swimming Lake and Paddle Boats) for the following reasons:

- The proposal to reinstate the Maldon Swimming Lake and paddle boats would effectively require this Council to construct an artificial lake.
- This would mean that the Council would then fall under the Health and Safety Executive guidance managing Health and Safety in Swimming pools.
- Guidance suggests that a higher duty of care is required for children and young adults particularly if they are unsupervised.
- The risk levels associated with the reinstatement of the lake are unacceptable for the public and this Council to manage.

This was duly seconded and upon a vote being taken the voting was as follows:

For the recommendation:

Councillors Mrs B F Acevedo, E L Bamford, B S Beale, R G Boyce, Mrs P A Channer, R P F Dewick, I E Dobson, Mrs H E Elliot, P G L Elliott, A S Fluker, Mrs B D Harker, B E Harker, M W Helm, Miss M E Lewis, M R Pearlman, R Pratt, N R Pudney, S J Savage, Mrs N G F Shaughnessy, Rev. A E J Shrimpton, A K M St. Joseph, Mrs M E Thompson and Miss S White.

Against the recommendation:

Councillor M S Heard.

Abstention:

Councillors H M Bass, A T Cain and M F L Durham.

RESOLVED that the Council not take the action requested by the Petition (to reinstate Maldon Prom Swimming Lake and Paddle Boats) for the follows reasons:

- The proposal to reinstate the Maldon Swimming Lake and paddle boats would effectively require this Council to construct an artificial lake.
- This would mean that the Council would then fall under the Health and Safety Executive guidance managing Health and Safety in Swimming pools.
- Guidance suggests that a higher duty of care is required for children and young adults particularly if they are unsupervised.
- The risk levels associated with the reinstatement of the lake are unacceptable for the public and this Council to manage.

540. QUESTIONS IN ACCORDANCE WITH PROCEDURE RULE 6(3) OF WHICH NOTICE HAS BEEN GIVEN

There were none.

541. ADOPTION OF WORKING DEFINITION OF ANTI-SEMITISM

The Council considered the report of the Director of Customers and Community seeking formal adoption of the working definition of Anti-Semitism as defined by the International Holocaust Remembrance Alliance (IHRA).

Members were advised that the Secretary of State for Communities and Local Government had written to all Local Authorities calling on them to formally adopt the working definition of anti-Semitism. This letter was attached at Appendix 1 to the report. Appendix 2 detailed the definition as agreed by the IHRA.

RESOLVED that the Council formally adopts the definition of Anti-Semitism as proposed by the International Holocaust Remembrance Alliance, as follows:

‘Anti-Semitism is a certain perception of Jews, which may be expressed as hatred towards Jews. Rhetorical or physical manifestations of anti-Semitism are directed towards Jewish or non-Jewish individuals and/or their property, towards Jewish community institutions and religious facilities’.

542. COMMITTEE STRUCTURE REVIEW

The Council considered the report of the Chief Executive, reporting back following a Member led activity in response to a Committee Structure Review undertaken by BDO (Internal Audit) and considered by this Council at its meeting on 5 April 2017.

It was noted that output from meetings with Group Members had been used to compile the recommendations set out in the report. The report provided a summary of the following issues considered:

- Officer attendance at Committee meetings;
- Reports for noting and information;
- Alignment of the decisions of different Committees;
- Replacement of the Parish Trigger and extending the Member call in area;
- Paperless Committee meetings;
- Screening of Committee meetings;
- Review of Area Planning Committees;
- Structure of Committee Services;
- Linking the Director roles with key programme Committees;
- Training for Members of Area Planning Committees.

RESOLVED

- (i) That Committee reports are presented by either the appropriate Director or their deputy at each programme Committee meeting to minimise the cost of officer time at meetings. Other officers should only be in attendance at the request of, or with the approval of, the Committee Chairman with the exception of Area Planning Committee and Extraordinary Council meetings where senior planning officers, in conjunction with the Committee Chairman, will decide which officers attend to present reports and take questions;
- (ii) That reports for noting and information will be brought to the attention of all Members but will not be included in the agenda of Committees / the Council. Members wishing to debate such reports can apply to the appropriate Committee Chairman or Leader of the Council;

Where reports concern Corporate Risk and Staff Statistics, these will still be presented to Committees by way of a recommendation ‘for review and comment’;

- (iii) That where a decision is required by more than one Committee and such decisions are not aligned the final decision will be made at the next meeting of the Council;
- (iv) That the current Town and Parish Council Trigger be replaced by member call in to Area Planning Committees, as detailed below:

Members Call in to Area Planning Committees

The process of Members calling in planning applications to the Central Area Planning Committee remains unchanged.

The process of Members calling in planning applications to the South Eastern and North Western Area Planning Committees is changed to allow for Ward

Members to call in any planning application that falls within their call in area, as follows:

South Eastern Area Planning Committee

Call in area 1Burnham-on-Crouch North and Burnham-on-Crouch South

Call in area 2Althorne, Mayland, Southminster and Tillingham

North Western Area Planning Committee

Call in area 1Tollesbury, Tolleshunt D'Arcy and the Tothams

Call in area 2Purleigh, Wickham Bishops and the Woodhams.

- (v) That the Council delivers additional IT training to Members and carries out a full review of technology and hardware to ensure it is fit for purpose;
- (vi) That the Council will fully implement Mod.Gov and achieve paperless meetings, save for extraordinary individual circumstances, by May 2019;
- (vii) That Officers bring forward a proposal to improve the ability to screen Committee meetings in the Northey Room (formerly the Training Room at the Council Offices) through improved cameras and sound recording equipment and present a proposal to live stream meetings for consideration;
- (viii) That the Director of Resources in conjunction with the Leader of the Council, Deputy Leader of the Council, Chairmen and Vice Chairman of the programme Committees reviews both the scope of Directorships and the terms of reference of programme Committees to align the Corporate Leadership Team (CLT) roles better with those of the programme Committees;
- (ix) That mandatory training is provided to all Area Planning Committee members no later than the Statutory Annual meeting of the Council in May 2018. This training should cover core planning regulations and guidance to support and inform Members when making decisions on planning applications;
- (x) That the Director of Resources reviews the outcome of these changes and reports back to Members no later than the end of quarter one 2018 / 19.

543. QUESTIONS TO THE LEADER OF THE COUNCIL IN ACCORDANCE WITH PROCEDURE RULE 1 (3) (M)

Councillor Miss M R Lewis asked the Leader of the Council following Councillor S J Savage's question to the Leader at the last meeting of the Council, if there was any further information regarding the Peer review report.

In response the Leader advised that he was due to meet with representatives from the Local Government Association on Monday 6 November 2017 and confirmed that once the report was finalised it would be brought back to the Council.

544. EXCLUSION OF PUBLIC AND PRESS

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following urgent item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 7 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

545. LLYS HELIG UPDATE

The Council considered the report of the Director of Customers and Community providing an update on progress in resolving the capsized vessel known as Llys Helig berthed on the foreshore in Burnham-on-Crouch.

Councillor Mrs P A Channer provided details regarding her earlier declaration and following advice from the Deputy Monitoring Officer left the chamber along with Councillor N R Pudney.

It was requested that the Monitoring Officer review the liabilities of Members that sat on Outside Bodies. The Monitoring Officer confirmed that he would do this.

An addendum to the report was circulated at the meeting providing additional information, Counsel advice and Members' attention drawn to the additional recommendations set out in it.

RESOLVED

- (i) that Members note the update on the Llys Helig;
- (ii) that Officers continue to report back to the Leader and Deputy Leader of the Council on an ongoing basis and to the next meeting of the Council (or sooner if necessary) on progress to resolve the situation;
- (iii) that Officers instruct Counsel to draft a letter to the Crouch Harbour Authority advising this Council believes the duty for the clearance of the Llys Helig rests with the Crouch Harbour Authority and this Council will take no further action in this respect.
- (iv) that Officers maintain open dialogue with Council's insurers but take no further action at this time with regard to the physical salvage of the Llys Helig.

There being no further items of business the Chairman closed the meeting at 8.50 pm.

H M BASS
CHAIRMAN



**REPORT of
CHIEF EXECUTIVE**

to
COUNCIL
21 DECEMBER 2017

RECOMMENDATIONS OF COMMITTEES FOR DECISION BY THE COUNCIL

1. PURPOSE OF THE REPORT

1.1 To present for the decision of the Council the recommendations of the Committees.

2. RECOMMENDATION

That Members consider the recommendations from the following Committees contained in sections 3 and 4 of this report:

Section 3: Planning and Licensing Committee – 16 November 2017

- Taxi and Private Hire Criminal Convictions Policy, Licensing Conditions and Scheme of Delegation (section 3.2)
- Taxi and Private Hire Medical Exemption Policy (section 3.3)
- Brownfield Land Register (section 3.4)
- Code of Good Practice and Guidance on the Conduct of Planning Matters (section 3.5)

Section 4: Finance and Corporate Services Committee – 28 November 2017

- Discretionary Rate Relief Scheme and Approval of Annual Rural Settlement List (section 4.2)
- Local Council Tax Support Scheme 2018/19 (section 4.3)
- Annual Review of Financial Regulations (section 4.4)
- Replacement Commissioning and Procurement Strategy and Contract Procedure Rules (section 4.5)
- Half Yearly Treasury Management Update (section 4.6)
- 2018/19 Budget Proposals (section 4.7)
- Council Tax Base 2018 / 19 (section 4.8)

3. PLANNING AND LICENSING COMMITTEE – 16 NOVEMBER 2017

3.1 Web link to agenda, reports and Minutes for the above meeting

<https://democracy.maldon.gov.uk/ieListDocuments.aspx?CIId=133&MIId=1262&Ver=4>

3.2 MINUTE 590 - TAXI AND PRIVATE HIRE CRIMINAL CONVICTIONS POLICY, LICENSING CONDITIONS AND SCHEME OF DELEGATION

3.2.1 Minute Extract:

The Committee received the report of the Chief Executive, the purpose of which was to consider a draft policy for the taxi and private hire trade in relation to the suitability of new applications and current licence holders with criminal convictions; to make changes to the taxi and private hire licensing conditions and the scheme of delegation to reflect the draft policy and to bring it up to date.

The Chairman advised the Committee that this report had come forward as a result of concerns raised by Councillor B F Acevedo. Members were concerned about the arrangements for dealing with property left in taxis. It was agreed that the Chairman, in consultation with the Licensing Officer and the Senior Solicitor, would discuss this and update the policy to include the appropriate wording. Subject to this, the Committee recommended that the policy be endorsed by Council.

3.2.2 Committee recommendation:

- (i) that the policy for the taxi and private hire trade in relation to the suitability of new applicants and current licence holders with criminal convictions (set out in **APPENDIX 1** to these Minutes) be endorsed;
- (ii) that the licensing conditions and scheme of delegation be updated and changed to reflect the policy.

3.3 MINUTE 591 - TAXI AND PRIVATE HIRE MEDICAL EXEMPTION POLICY

3.3.1 Minute Extract:

The Committee received the report of the Chief Executive, the purpose of which was to consider a policy for the exemption of taxi and private hire drivers from the duties placed upon them by the Equality Act 2010 and to consider an amendment to the taxi and private hire licensing conditions to take account of the new duties placed upon drivers of designated wheelchair accessible vehicles.

3.3.2 Committee recommendation:

- (i) that the policy for the exemption of taxi and private hire drivers from the duties placed upon them by the Equality Act 2010 (**APPENDIX 2** to these Minutes) be endorsed;
- (ii) that the amendments to the taxi and private hire licensing conditions (as set out detailed below) be agreed.

‘The driver shall carry a disabled person’s dog (e.g. guide or hearing dogs) and allow it to remain with that person or, if a driver of a designated wheelchair accessible vehicle, wheelchair passengers at no additional cost, as specified in sections 165 and 168 of the Equality Act 2010, unless exempted by the Council on medical grounds.’

3.4 **MINUTE 594 - BROWNFIELD LAND REGISTER**

3.4.1 Minute Extract:

The Committee received the report of the Chief Executive which provided an update on preparing and publishing a Brownfield Land Register.

The Planning Policy Manager advised Members that Part 1 of the Brownfield Land Register must be published by 31 December 2017.

3.4.2 **Committee recommendation:**

That the publication of the Brownfield Land Register on the Council’s website be approved.

3.5 **MINUTE 597 - CODE OF GOOD PRACTICE AND GUIDANCE ON THE CONDUCT OF PLANNING MATTERS**

3.5.1 Minute Extract:

The Committee received the report of the Chief Executive which sought endorsement of the Code of Practice and Guidance on the Conduct of Planning Matters (Appendix 1 to the report) for recommendation to the Council for adoption as part of its Constitution in the light of further revision.

The Chairman advised that this report had come back to this Committee as the version taken to Council had been incorrect. This was the correct version.

3.5.2 **Committee recommendation:**

- (i) that the Code of Practice and Guidance on the Conduct of Planning Matters (attached as **APPENDIX 3** to these Minutes) be endorsed and the Council is recommended to adopt it as an annexe to the Constitution;
- (ii) that the changes to constitutional arrangements as set out below, be agreed.

Procedure Rule 13 – Voting

Add to (1) – If a Member has not been present at the meeting for the whole of the consideration of a planning application or related matter, or has not undergone fundamental induction training once such a programme has been introduced he/she shall not vote on the matter.

Planning and Licensing Committee Scheme of Delegation

To the Chief Executive (Director) –

In consultation with the Chairman of the Committee, to review the accuracy of agreed planning conditions due to the passage of time between the Committee decision and the issue of a decision notice consequent upon the completion of a S106 planning obligation.

Terms of Reference of Area Planning Committees

Delete provision (a) – To consider and report to the Council
Amend existing para. (b)(i)11 by the deletion of “The approval of”

4. FINANCE AND CORPORATE SERVICES COMMITTEE – 28 NOVEMBER 2017

4.1 **Web link to agenda, reports and Minutes for the above meeting**
<https://democracy.maldon.gov.uk/ieListDocuments.aspx?CIId=131&MIId=1242&Ver=4>

4.2 MINUTE 638 - DISCRETIONARY RATE RELIEF SCHEME AND APPROVAL OF ANNUAL RURAL SETTLEMENT LIST

4.2.1 Minute Extract (DRAFT as Minutes have not been finalised):

The Committee considered the report of the Director of Customers and Community seeking Members’ approval of the proposed Discretionary Non Domestic Rates Relief Scheme (attached as Appendix 1 to the report).

It was noted that the Government had announced a package to help businesses affected by significant increases in business rates as a result of the 2017 revaluation and details of these schemes were set out in Appendix 2 to the report. Members were advised that the Council had implemented two of the schemes and developed a policy with other Essex authorities in respect of the third.

4.2.2 Committee recommendation:

That the proposed Discretionary Non Domestic Rate Relief Scheme (attached as **APPENDIX 4** to this report) be approved.

4.3 MINUTE 639 - LOCAL COUNCIL TAX SUPPORT SCHEME 2018 / 19

4.3.1 Minute Extract (DRAFT as Minutes have not been finalised):

The Committee considered the report of the Director of Customers and Community providing an update on the cost and impact of the current 2017 / 18 Local Council Tax Support (LCTS) Scheme for the Maldon District. Members’ approval was also sought for a substantially unchanged cost neutral scheme for 2018 / 19.

It was noted that a recent consultation exercise had been untaken and the key outcomes was set out in the report. The only change recommended to the LCTS Scheme for 2018 / 19 were for a cost of living increase in line with the rates proposed by the Department for Work and Pensions for pensioners.

4.3.2 Committee recommendation:

- (i) that a cost of living increase in line with the Department for Work and Pensions schemes be included in the Local Council Tax Support Scheme (LCTS) for 2018 / 19 for Pensioners only;
- (ii) that any legislative changes being introduced to the Housing Benefit Scheme for 2018 / 19 are mirrored in the Councils LCTS scheme to ensure consistency;
- (iii) that a disregard of low value income changes notified electronically by the Department of Work and Pensions be allowed for;
- (iv) that in all other respects the Local Council Tax Support Scheme and Hardship Scheme remain unchanged, and that this decision has been made following Members' careful reading of, and regard to the Equality Impact Assessment at **APPENDIX 5** to this report.

4.4 MINUTE 640 - ANNUAL REVIEW OF FINANCIAL REGULATIONS

4.4.1 Minute Extract (DRAFT as Minutes have not been finalised):

The Committee considered the report of the Director of Resources seeking approval of revisions to the Financial Regulations as part of the regular annual review.

The changes to Financial Regulations were highlighted within the report and an updated version was attached as Appendix 1. It was noted that there were a number of additional policies and procedures relating to financial processes maintained by the Finance Team. Members were reminded of their request at the last meeting for procured notes for debtors and creditors and these were attached as Appendix 2 and 3 to the report respectively.

In response to a question regarding not extending debts to those who have had previous debt with the Council, the Director of Resources advised that the Council could operate a list if this was the requirement of Members, but was not something currently done.

Councillor A S Fluker proposed that the Council should not extend debts to those persons whom had had previous debts to the Council written off. This proposal was duly seconded and agreed.

4.4.2 Committee recommendation:

That subject to the above amendment, the Financial Regulations attached as **APPENDIX 6** to this report, be approved.

4.5 **MINUTE 642 - REPLACEMENT COMMISSIONING AND PROCUREMENT STRATEGY AND CONTRACT PROCEDURE RULES**

4.5.1 Minute Extract (DRAFT as Minutes have not been finalised):

The Committee considered the report of the Director of Resources seeking Members' approval of the Procurement Strategy (attached at Appendix A to the report) and Contract Procedure Rules (Appendix B) which had been updated and modified.

It was noted that the Commissioning and Procurement Strategy had been re-written to ensure it met the needs of the Authority and the report identified a number of requirements that had to be considered.

4.5.2 Committee recommendation:

That the updated Commissioning and Procurement Strategy (attached as APPENDIX 7 to this report) and Contract Procedure Rules (APPENDIX 8) be agreed

4.6 **MINUTE 645 - HALF YEARLY TREASURY MANAGEMENT UPDATE**

4.6.1 Minute Extract (DRAFT as Minutes have not been finalised):

The Committee received the report of the Director of Resources reporting on the Council's investment activity for the first half of 2017 / 18 in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) and Accountancy Treasury Management code and the Council's Treasury Management Policies and Practices (TMPs).

The report detailed the Council's investment activity for both investments and instant access reserve accounts. Security of capital had remained the Council's main investment objective, which had been maintained by following the Council's counterparty policy.

Appendix 1 to the report had been prepared by Arlingclose (who provide treasury management consultancy and advice to the Council) and provided an overview of the external economic environment. The report outlined investment activity for April – September 2017.

The report provided Members with an update on Counterparty risk and projected investment income for the year. It was noted that the Council had complied with its Prudential Indicators for 2017 / 18 and this was detailed in Appendix 2 to the report.

Members were advised of a number of proposed amendments to the Treasury Management Strategy and these were detailed in Appendix 3 to the report. The investment strategy had also been updated to enable the Council's available funds to be invested to make better returns.

In response to a number of questions the Director of Resources provided Members with further information regarding the operational boundary for External debt, commercialisation and flexibility. The Director of Resources explained the reasons

behind this report being brought to this Committee and how it allowed time for any amendments, if required, prior to consideration of the budget for 2018 / 19.

4.6.2 Committee recommendation:

- (i) that the proposed amendment to the Treasury Management Strategy 2017 / 18 relating to Prudential Indicators for an Operational Boundary for External debt and an Authorised limit for External debt, be approved;
- (ii) that the proposed amendments in relation to investment strategy (attached as **APPENDIX 9** to this report) be approved.

4.7 MINUTE 648 - COUNCIL TAX BASE 2018 / 19

4.7.1 Minute Extract (DRAFT as Minutes have not been finalised):

The Committee considered the report of the Director of Resources relating to the Council Tax Base for 2018 / 19. It was noted that the Council had to notify its tax base calculations to Essex County Council, Essex Fire Authority, the Police and Crime Commissioner for Essex and Parish Councils by 31 January 2018.

It was explained that the tax base figure was an integral part of the calculations for setting the level of Council Tax. The detailed calculation of the relevant amounts for 2018 / 19 were shown in Appendix A to the report.

Members were informed that the tax base used for 2017 / 18 was 23,868.7. The proposed new figure represented an increase of 324.5 or 1.36%. This increase related to the number of new houses now on the valuation list.

4.7.2 Committee recommendation:

That in accordance with the Local Authorities (Calculation of Tax Base) Regulations 2012 the amount calculated by the Maldon District Council as its Council Tax Base for the year 2018 / 19 shall be set at 24,193.2.

Enquiries to: Fiona Marshall, Chief Executive, (Tel: 01621 875710).

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Taxi and Private Hire Criminal Convictions Policy

DRAFT

Contents

1. Introduction
2. General policy
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18. Once a licence has been granted
19. Summary

1. Introduction

The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or existing licence holder is a fit and proper person to hold a taxi or private hire licence.

The over-riding aim is to protect the safety of the public and to ensure the:-

- person is a fit and proper person;
- person does not pose a threat to the public;
- public are safeguarded from dishonest persons; and the
- safeguarding of children and young persons.

2. General policy

Each case will be determined on its own merits. Whilst the Council may consider that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, it would normally be expected that the applicant would be required to:-

- remain free of conviction for an appropriate period; and
- show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

Where an applicant has been convicted of a criminal offence, the Council cannot review the merits of the conviction.

The Council will take into account all convictions recorded against the person whether spent or not. The standards set out in this policy are those that would normally be applied, although the Council may depart from these in exceptional circumstances.

3. Pre-requisites to making an application

Every application for a driver's licence must be accompanied by satisfactory evidence that the applicant has (incomplete applications will not be deemed to have been made until such time as they are complete):-

- the right to live and work in the country;
- an enhanced criminal record check and evidence that they are not on a child and / or vulnerable adult barring list;
- a current certificate of medical fitness (to group 2 standard);
- authorisation to drive a vehicle of the same classification as that of their licence;
- a minimum of 3 years post-qualification driving experience (or if not, successful completion of an advanced driving assessment) and, if an EU passport, evidence of at least one year's experience of driving on UK roads;
- adequate literacy and numeracy skills, including sufficient ability to speak and understand English, to provide the service that they wish to be licensed for.

If an applicant has spent 6 continuous months or more overseas, the Council will expect to see evidence of a criminal record check from the country / countries covering this period. The criminal record check must be in English, if not, it must be translated into English by a certified translator acceptable to the Council.

4. Appeals

Any person who has their application for a licence refused or their licence suspended or revoked on the grounds of not being a fit and proper person has a right of appeal to the Magistrates' Court within 21 days of being given notice of refusal, suspension or revocation.

5. Powers

The Council can refuse, suspend or revoke a licence if the applicant / licence holder has been convicted of an offence involving dishonesty; indecency; violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

The Council can take into account all convictions recorded against the applicant or holder of a driver's licence, whether spent or not. The Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

6. Consideration of disclosed criminal history

If an applicant or licence holder has any convictions, warnings, cautions or charges awaiting trial, the Council will consider:-

- how relevant the offence(s) are;
- how serious the offence(s) were;
- when the offence(s) were committed;
- the date of conviction;
- circumstances of the individual concerned;
- sentence imposed by the court;
- the applicant's age at the time of conviction;
- whether there is a pattern of offending;
- any other character check considered reasonable (e.g. personal references); and
- any other relevant factors.

Existing holders of drivers' licences are required to notify the Council in writing within 7 days of being arrested, receiving a driving endorsement, fixed penalty notice or criminal conviction (including cautions).

Applicants can discuss further what effect a caution / conviction may have on any application by contacting a licensing officer in confidence for advice.

The Council checks enhanced disclosures from the Disclosure and Barring Service (DBS) obtained by the applicant at their expense. The Council will also use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Councils and information disclosed by the Police.

It is an offence for any person to knowingly make a false declaration or to omit any material facts when making an application. Where an applicant has given a false statement or declaration, the licence will normally be refused.

7. Serious offences involving violence

As licensed drivers have close contact with the public, a firm line is taken with those who have convictions involving violence.

A licence will not normally be granted where the applicant has a conviction for the following and it is less than 10 years prior to the date of application. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted of the following.

- Murder
- Manslaughter or culpable homicide while driving
- Terrorism
- Similar offences (including attempted or conspiracy to commit)
- Arson
- Malicious wounding or grievous bodily harm
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of a firearm
- Riot
- Violent disorder
- Resisting arrest
- Similar offences (including attempted or conspiracy to commit)

A licence will not normally be granted where the applicant has a conviction for the following and it is less than 5 years prior to the date of application. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted for the following.

- Criminal damage
- Racially aggravated offence
- Assault (Police assault, common assault and assault occasioning actual bodily harm)
- Affray
- Section 5 Public Order Act 1986 offence (harassment, alarm or distress)
- Section 4 Public Order Act 1986 offence (fear of provocation of violence)
- Section 4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Similar offences (including attempted or conspiracy to commit)

A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

8. Possession of a weapon

If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public. Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer). Likewise, a licence may be suspended or revoked where an existing licence holder is convicted for possession of a weapon.

9. Sex and indecency offences

As licensed drivers carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences will be considered as serious. The Council will not grant a licence to any applicant who is currently on the Sex Offenders Register. If an existing licence holder is added to the Sex Offenders Register, the licence will be revoked.

Applicants with convictions for sexual or indecency for the following offences that involve a third party will normally be refused a licence. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted for the following.

- Rape
- Assault by penetration
- Offences involving children and vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography, etc.
- Indecent exposure
- Soliciting (kerb crawling)
- Any sex or indecency offence committed in the course of employment as a taxi or private hire driver
- Similar offences (including attempted or conspiracy to commit)

10. Dishonesty

A licensed driver is expected to be a trustworthy person. The practice of delivering unaccompanied property is indicative of the trust that people place in drivers. They deal with cash transactions and property may be left in their vehicles. The Council's licensing conditions require drivers to return property to the owner within a reasonable period of time. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the agreed fare. For these reasons, a serious view is taken of any conviction involving dishonesty.

In general, minimum periods of 5 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before a licence is granted for the

following offences. A licence may be suspended or revoked where an existing licence holder is convicted for the following offences.

- Theft
- Burglary
- Fraud (including benefit fraud)
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Deception (including obtaining money or property by deception)
- Taking a vehicle without consent
- Similar offence (including attempted or conspiracy to commit)

A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence. Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence. Likewise, existing licence holders may have their licence suspended or revoked.

11. Drugs

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply, are issues that will be considered. A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs or more than one conviction related to the possession of drugs and has not been free of conviction for 5 years. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted of a drug-related offence.

An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration will be given to the nature and quantity of drugs.

If there is evidence of persistent drug use, misuse or dependency, a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If an applicant was an addict, they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

12. Driving offences

As licensees are professional vocational drivers, a serious view is taken of convictions for driving or being in charge of a vehicle while under the influence of drink or drugs or for driving whilst using a mobile phone. A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence, but there is a significant risk to his / her licence status in the event of re-offending and this may be suspended or revoked. Normally, at least 3 years after the restoration of the driving licence following a drink / drug drive conviction should elapse before an application will be considered. If there is any suggestion that the

applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances, a licence will not be granted where there is a conviction for the following offences.

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Any similar offences

13. Licensing offences

Certain offences under taxi or private hire legislation, e.g. plying for hire, overcharging or refusing to carry disabled persons, would normally prevent a licence being granted until 3 years has passed. A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted of licensing offences.

14. Insurance offences

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided the applicant has been free of conviction for 3 years. A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence. Likewise, a licensed driver convicted of driving or being in charge of a vehicle without insurance may have their licence suspended or revoked.

An operator found guilty of aiding and abetting the driving of passengers whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least 3 years.

15. Outstanding charges or summonses

If the applicant is the subject of an outstanding charge or summons, their application can be processed, but the application will be reviewed at the conclusion of proceedings. If the outstanding charge or summons involves a serious offence and the applicant's conviction history indicates a pattern of unlawful behaviour, the application may be put on hold until proceedings are concluded or the licence may be refused. For existing licence-holders, each case will be determined on its merits: the licence may be suspended or revoked.

16. Non-conviction information

If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence, the application may be refused. For existing licence-holders, each case will be determined on its merits: the licence may be suspended or revoked.

Cautions

Admission of guilt is required before a caution can be issued: each case will be considered on its merits. Likewise, for existing licence-holders, the licence may be suspended or revoked.

Once a licence has been granted

If a licence holder's conduct is such that, were they applying for a new licence their application would normally be refused, consideration will be given to the suspension and revocation of their licence.

A suspension or revocation of the licence takes effect at the end of 21 days, beginning with the day the notice is given to the driver. In the interests of public safety, however, the suspension or revocation of the licence may have immediate effect.

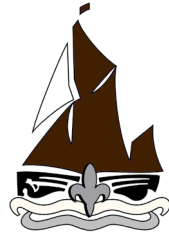
A suspension or revocation of an operator's licence will take effect at the end of 21 days, beginning with the day the notice is given to the operator.

17. Summary

A criminal history in itself will not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. In most cases, an applicant would be expected to remain free from conviction for 3 to 10 years before an application can be considered. There may be occasions, however, when an application can be allowed before 3 years free from convictions have elapsed.

Whilst an applicant may have a number of convictions that individually meet this policy, the overall offending history must be considered. A series of offences over a period of time is more likely to give cause for concern than an isolated, minor conviction. Some discretion can be afforded if an offence is minor and isolated with mitigating circumstances, but the overriding consideration is the protections of the public.

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MALDON DISTRICT
COUNCIL

Taxis and Private Hire Drivers

Equality Act 2010

Medical Exemption Policy

Contents

1. Introduction
2. Published List of Designated Wheelchair Accessible Vehicles
3. Equality Act 2010
4. Exemption Certificates
5. Outcome
6. Dispute Resolution

Appendices

1. Application for an exemption certificate

DRAFT

1. Introduction

To provide better services for disabled people, the Council endorses the provisions of the Equality Act 2010. We want to ensure that passengers with assistance dogs or wheelchair users receive lawful treatment and have the same access to public transport services, confident of receiving the assistance they need to travel safely.

This policy applies to all drivers who possess a current hackney carriage (taxi), private hire or dual taxi / private hire driver's licence. The policy applies where a licensed driver wishes to be exempt from the requirements placed upon them under the Equality Act 2010 with respect to the carriage of passengers in wheelchairs and assistance dogs.

2. Published List of Designated Wheelchair Accessible Taxi and Private Hire Vehicles

The Councils wants to ensure that wheelchair passengers are better informed about the accessibility of the taxi and private hire vehicle fleet within the Maldon District. In order to do this, the Council provides a list of designated taxis or private hire vehicles which are able to take passengers in their wheelchairs should they prefer. To be placed on the designated list, vehicles must be capable of carrying some, but not necessarily all, types of occupied wheelchairs. Vehicles shall only be included if it is possible for a wheelchair passenger to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

There is a right of appeal against a decision to place a vehicle on the designated list to the magistrates' court within 28 days of being included in the list.

3. Equality Act 2010

3.1 Wheelchair Users

The Act places duties on drivers of designated wheelchair accessible taxis and private hire vehicles to:-

- carry the passenger while in the wheelchair;
- carry their wheelchair should the passenger choose to sit in a passenger seat;
- not make any additional charge for doing so;
- take such necessary steps to ensure that the passenger is carried in safety and reasonable comfort;
- give the passenger such mobility assistance as is reasonably required to:-
 - enable the passenger to get into or out of the vehicle, including in the wheelchair if they wish to remain in it;
 - load the passenger's luggage into or out of the vehicle;
 - load the wheelchair into or out of the vehicle if the passenger does not wish to remain in the wheelchair.

3.2 Assistance Dogs

The Act places duties on drivers of taxis and private hire vehicles to:-

- carry a passenger's (guide, hearing or assistance) dog, allowing the dog to remain with the passenger;
- not make any additional charge for doing so.

3.3 Exemption Certificates and Notices

If satisfied that it is appropriate to do so, the Act allows the Council to exempt taxi and private hire drivers from their duties on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with their duties.

3.4 Offences

It is an offence for a driver of a designated wheelchair accessible taxi or private hire vehicle to refuse to carry a passenger in a wheelchair if on the Council's published designated list. It is also an offence not to comply with any of the duties placed upon them as set out in section 3.1 above.

It is an offence for a taxi driver hired by or on behalf of a disabled person who is accompanied by an assistance dog (or by another person who wishes to be accompanied by a disabled person with an assistance dog) to refuse to carry the assistance dog. It is also an offence not to comply with the duties placed upon them as set out in section 3.2 above.

It is an offence for the operator of a private hire vehicle to refuse to accept a booking for the vehicle if the booking is requested by or on behalf of a disabled person with an assistance dog (or by another person who wishes to be accompanied by a disabled person with an assistance dog) and the reason for the refusal is that the disabled person will be accompanied by an assistance dog. The operator also commits an offence if they make an additional charge for carrying an assistance dog which is accompanying a disabled person.

It is an offence for the driver of a private hire vehicle to refuse to carry out a booking accepted by the operator if the booking is made by or on behalf of a disabled person (or by another person who wishes to be accompanied by a disabled person) and the reason for the refusal is that the disabled person is accompanied by an assistance dog.

3.5 Defences

It is a defence if a driver has a valid exemption certificate and is displaying a valid exemption notice. It is also a defence if the vehicle can't carry larger or heavier wheelchairs safely. Religious or cultural beliefs cannot be cited as a reason for refusal to carry assistance dogs.

If a complaint of discrimination is substantiated, the Council may suspend or revoke a driver's licence.

4. Exemption certificates

4.1 Medical

In some circumstances, a taxi or private hire driver may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons (in the short or long term). The Council can grant an exemption to drivers from the duties to assist passengers in wheelchairs or to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with their duties.

There are no exemptions, medical or otherwise, for a driver in respect of conveying a reasonable quantity of luggage or providing reasonable assistance in the loading and unloading of luggage.

4.2 Obtaining and Exemption Certificate

Drivers considering applying for an exemption in relation to the carriage of passengers in wheelchairs may wish to first determine whether the vehicle they drive (or may drive in the future) has been designated as wheelchair accessible.

To check which vehicles have been designated as wheelchair accessible, please refer to the published list on the Council's website.

The licensed driver must obtain and supply a letter from their own General Practitioner (G.P) explaining what duties the driver:

- cannot undertake;
- why the duties cannot be undertaken; and
- for how long the duties cannot be undertaken for.

The letter must be accompanied by an application (Appendix 1) which must be submitted to the Council. There is no fee attached to this process, however, the cost (if any) of obtaining the letter from the driver's G.P. must be paid for by the applicant.

If the G.P.'s letter states that the driver is unfit to carry passengers in wheelchairs and / or assistance dogs for a specified period of time (up to a maximum of 3 months), a temporary 'Exemption Notice' will be issued by the Council with an expiry date in line with the information provided on the G.P.'s letter. If the applicant's G.P. does not specify a period of time, then the Council will reject the application.

If the G.P.'s letter is not clear or is ambiguous in any way, the matter will be referred to the Council's Licensing Sub-Committee for consideration. If a Committee is convened, the applicant will be invited to attend and explain the nature of the exemption request and the matter will be determined.

Upon the expiry of the Exemption Notice, drivers will be deemed fit to undertake all duties and the Exemption Notice must be returned to the Council within 7 days. If it is not returned within this period, the driver's licence could be suspended until such time as the Notice is returned and the matter will be referred to the Council's Licensing Sub-Committee.

If the driver expects that the temporary Exemption Notice will be extended beyond 3 months, then prior to the expiry date of the notice, the driver will need to contact the Council to discuss the next steps and timescales. The driver is strongly advised to make contact at the earliest opportunity: it will not be possible to extend the temporary Exemption Notice outside of this process.

During the period of the temporary Exemption Notice, the driver will be required to contact their own G.P. to arrange for an in-depth medical report to be compiled (the cost for which must be paid for by the driver) and following receipt of this, will then be required to make an appointment with the Council's approved medical practitioner to present the report from their own G.P. and to undergo an examination / consultation where the practitioner will complete the 'Statement of Fitness' on the applicant's capability to undertake the duties in terms of their medical grounds and / or physical condition, and for how long. The driver will be required to pay for the statement of fitness supplied by the Council's approved medical practitioner.

The driver will need to submit the 'Statement of Fitness' to the Council for determination.

5. Outcome

If the statement confirms that the driver is able to undertake the duties and is fit for work, the temporary Exemption Notice must be returned to the Council and the driver will be expected to resume normal duties. If the temporary Exemption Notice is not returned to the Council, the driver's licence could be suspended until such time as the Notice is returned and driver will be referred to the Licensing Sub-Committee.

If the statement of fitness confirms that the driver is able to undertake duties, with reasonable adjustments, a further temporary Exemption Notice of up to 3 months may be issued. It is expected that within those 3 months, the driver will undertake the reasonable adjustments to allow a return to full duties. At the end of 3 months, the temporary Exemption Notice must be returned to the Council and the driver will be expected to resume normal duties. If the temporary Exemption Notice is not returned to the Council, the driver's licence could be suspended until such time as the Notice is returned and the driver will be referred to the Licensing Sub-Committee.

If the statement of fitness confirms that the driver is temporarily unfit to carry passengers in wheelchairs and / or assistance dogs, a temporary Exemption Notice will be granted for the length of time as determined by the approved practitioner. The driver will then be expected to attend a further assessment / consultation with the approved practitioner prior to the expiry date of the temporary Exemption Notice.

If the driver is declared permanently unfit to carry passengers in wheelchairs and / or assistance dogs, an Exemption Notice will be issued. The Exemption Notice must be displayed prominently in the vehicle for public viewing. The exemption may be reviewed every 5 years, with reference to expert medical evidence / advice and each case will be determined on an individual basis. This could include a further referral to the approved practitioner.

If the driver disagrees with the medical recommendation and subsequent determination by the Council, the matter will be referred to the Licensing Sub-Committee for consideration.

6. Dispute Resolution

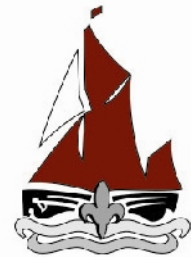
If a driver does not agree with the decision of the Licensing Sub-Committee, he / she is able to appeal the decision through the Magistrates' court. The driver has 28 days from the date of refusal to appeal.

Appendix 1

Application for an exemption certificate

MALDON DISTRICT COUNCIL

Princes Road
Maldon
Essex CM9 5DL



Surname:	
First Name(s):	
Title: Miss, Mrs, Ms, Mr, Other	
Address:	
Postcode:	
Tel. No:	Mobile No:
Date of birth:	
Driver licence number:	Expiry date:

Exemption request

I request that the Council considers granting me an exemption from the following, TICK the appropriate box(es):

Carrying wheelchair users

Carrying assistance dogs

G.P. details

Name of G.P.: _____

Practice name and address of G.P.: _____

Tel. No. of G.P.: _____

Brief details of why the request for medical exemption is being made: _____

To be completed by the applicant

I declare that the answers given above are true. I understand that if I have made any omissions or statements I know to be false, my application may be refused. I have read the Council's policy in relation to exemption certificates.

Signed: Dated: / /

You may render yourself liable to prosecution for an offence if you fail to comply with the conditions of the licence, the law in relation to the Equality Act 2010 and exemption certificates and notices.

(The Council is under a duty to protect the public funds it administers and it may use the information you have provided on this form for the prevention or detection of fraud. It may share this information with other bodies responsible for auditing and administering public funds for these purposes.

Once completed, please return the application form with the relevant documentation to:

Maldon District Council, Princes Road, Maldon CM9 5DL.

If you have any enquiries, contact Licensing, telephone 01621 854477 or email licensing@maldon.gov.uk.

	Checklist
Application form completed	
G.P.'s letter (cost borne by the applicant)	
For office use only	
Date medical exemption application received:	
Exemption agreed	<input type="checkbox"/>
Exemption declined	<input type="checkbox"/>
If exemption declined, give reasons and details of any further action taken (have you notified the driver within 28 days):	
Signed: Dated: / /	
Date Temporary Exemption Notice Issued:	
Date of Expiry:	
Entered on to Uniform	By:



ANNEXE TO CONSTITUTION

Part _____

CODE OF GOOD PRACTICE AND GUIDANCE ON THE THE CONDUCT OF PLANNING MATTERS

Draft June 2017

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1 BACKGROUND AND INTRODUCTION

- 1.1 This document sets out the way in which the Maldon District Council (“the Council”) will discharge its planning functions and responsibilities, in particular the determination of planning applications and related matters. In this document, the term “Planning Committees” means the Area Planning Committees and/or the Planning and Licensing Committee. It will also apply to extraordinary meetings of the Council called to deal with defined strategic planning applications.
- 1.2 This document applies to Members and Officers at all times when involved in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers, the public and consultative meetings). It applies as equally to planning enforcement matters as it does to planning applications.
- 1.3 This Guidance supplements the Members’ Code of Conduct. It is unlikely that there will be any conflict between the two documents but, if there is, the provisions of the Members’ Code of Conduct will take precedence.
- 1.4 One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that the local planning authority, both planning officers and the planning committee, make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well founded in any way.
- 1.5 An important reference document is Probity in Planning for Councillors and Officers (April 2013) issued jointly by the Local Government Association and the Planning Advisory Service.

2 COUNCILLORS AND OFFICERS – ROLES, RELATIONSHIPS AND CONDUCT

- 2.1 The successful operation of the planning system relies on mutual trust between Members and Officers, and an understanding of each other’s roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so. Councillors and Officers have different but complementary roles. While both serve the public in different ways, Councillors are elected and therefore have a responsibility towards the electorate. Officers are employed by and therefore responsible to the Council as a whole. It follows that although Officers will advise Councillors, both individually and collectively, they may only take instructions from the Council or a Committee. Officers are responsible for the implementation of decisions of the Council and its Committees.

- 2.2 Both Councillors and Officers are guided by codes of conduct. Councillors have signed up to the Council's own Local Code of Conduct and must have regard to and follow this in all their official actions. Breaches of the Code may result in complaints to the Council's Monitoring Officer who may decide to refer the matter to the Standards Committee. Should a breach of the Code be found, sanctions may be imposed on the Councillor concerned. Breaches of the code may also result in complaints of maladministration to the Local Government Ombudsman.
- 2.3 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of this Code may result in disciplinary action by the Institute. The Council also has in place a Code of Conduct for its staff. In addition to these Codes, its Council and Committee Procedural Rules govern the conduct of Council business, and the Protocol on Member/Officer Relations sets out in greater detail and provides guidance on how the working relationship between Councillors and Officers should operate.
- 2.4 Councillors must not instruct officers to make a particular recommendation nor to take a particular course of action other than through a decision of the Council or one of its committees. Officers must give objective, impartial planning advice, based on their professional judgement and not be compromised or influenced by political considerations. Chartered Town Planners may only advocate their own professional view. Under the Local Government and Housing Act 1989 the Council is able to place restrictions on the outside activities of senior and other designated Officers, particularly in relation to membership of political parties and other Councils.
- 2.5 The Council's Local Development Plan is adopted in the interests of the whole community, following public consultation. It therefore reflects the overall public interest, rather than those of individuals or organisations. Councillors and Officers must support the Council's planning policies and make decisions in accordance with them, unless there are sound planning reasons for not ~~doing~~ so doing.
- 2.6 In dealing with planning applications, Councillors will be acting both as representatives of the people and also as decision makers, objectively considering all relevant issues and deciding upon them. Councillors will justifiably take into account matters of public concern, representations they have received and an assessment of what may or may not be appropriate for the area.
- 2.7 Not all planning decisions are a matter of planning law or policy. Many decisions require an element of judgment, and therefore Councillors need to retain a fair and open-minded approach to the decision making process. So too will Officers in determining applications under delegated powers. In addition, Officers through their professional responsibilities will be involved in the processing of planning applications including negotiating with and

providing assistance to applicants and their agents and also members of the public.

- 2.8 While Councillors may sense a particular responsibility to serve their Ward electors, they have an overriding duty to the people of the Maldon District as a whole. It follows that since planning decisions are being taken on behalf of the Maldon District Council they must be reflective of the interests of the District community as a whole. The decision making process is covered in greater detail in section 6 of this document.

3 COUNCILLORS' TRAINING

- 3.1 Planning is a complex area, and planning decisions are open to challenge both on appeal and in the courts. It has long been a constant theme of national advice, that all Councillors regardless of their experience should receive adequate training to assist them in the performance of their duties.

~~3.2~~ By 01.12.17 all Councillors will be required to have completed an agreed programme of training prior to being able to take part in decision making in planning applications and related matters. Once this training has been completed, it will remain valid for a period of three years, and then refreshed. Any new Councillors who have not undertaken will be required to undertake the agreed training programme will be able to participate in the discussion but not vote on planning applications and related matters before taking part in decision making in planning matters.

~~3.3~~ The training programme in planning will be determined by the Director of Planning & Regulatory Services, in consultation with the Leader and Deputy Leader and the Chairman and Vice-Chairman of Planning & Licensing Committee.

- ~~3.42~~ In addition, all Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices, ~~mainly through briefing presentations by Officers at committee meetings.~~ Officers will also arrange training on more specialised planning issues and all members of the Council will be strongly encouraged to attend.

4 PROBITY IN THE PLANNING PROCESS

- 4.1 Involvement in the planning process creates considerable potential for conflicts of interest, whether it is through an issue directly affecting a Councillor or an Officer, or indirectly in terms of family, friends or possibly an organisation with which he or she is associated. It is a fundamental principle that decisions should not be made by those who have a pecuniary interest in the outcome. This is vital to avoid public confidence in the planning system being eroded.

- 4.2 The general rule is that a Councillor or Officer should not use his or her position to further a private or personal interest, rather than the general public interest, or give grounds for any suspicion. The key issue is whether a member of the public would reasonably think that they might be influenced by their interest.
- 4.3 Councillors engaged in the determination of planning applications must ensure that they do not use their position improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.

Pre-determination/Pre-disposition

- 4.4 Councillors taking planning decisions are required to have an ‘open mind’ and listen to all the evidence before taking a decision. The Localism Act 2011 (S25) provides Members with a degree of assurance should they wish to indicate their views in advance without fear of being regarded as having pre-determined the issue and subsequently excluded from the decision making. To do so may still indicate pre-judgment of the application and expose the Council to the possibility of legal challenge.
- 4.5 The intended effect of the Localism Act provision has still to be determined in the courts, but even if it were held to reduce the prospect of or prevent a legal challenge to the validity of a decision it offers no protection against allegations of maladministration or a breach of the Local Code of Conduct. Members should not make up their minds until they have read the relevant committee reports, heard the evidence and considered the representations, including any public speakers. It is important that Members hear all the evidence and representations prior to reaching a decision.
- 4.6 The concept of pre-determination is different to that of pre-disposition. While carefully wishing to avoid any show of bias of view, it is acceptable for a Member to indicate a view, and -even campaign, on planning issues in a general way. This is relevant where Members of a Planning Committee are also Parish/Town Councillors and where they may wish to contribute to a particular discussion at a more local level. Members must still avoid specific statements on how they will vote on individual planning applications or types of planning application prior to the relevant District Council Planning Committee meeting to avoid any impression of bias and pre-determination. If such statements have been made, they should declare an interest, withdraw from the Chamber and not take part in the debate or vote.
- 4.7 Councillors on a Planning Committee who are also members of Town or Parish Councils may speak and vote at Town or Parish and District levels if they are genuinely willing to listen to the later debate and weigh the considerations material to the later decision.

Interests and the Local Code of Conduct

- 4.8 Membership of another body would constitute a non-pecuniary interest, particularly if it is an organisation whose primary purpose is to lobby to promote or oppose planning proposals. Depending on the degree of involvement there is the prospect of fettering a Councillor's discretion and limiting the ability to participate in the consideration and determination of a planning application.
- 4.9 Members of Planning Committees who are also Parish/Town Councillors should be aware of the potential repercussions of their involvement in the consideration of planning proposals at Parish/Town Council level. They should make it clear at that time that any views they may express, including the exercise of a vote, on the comments to be made to the District Council, can only be based on the information available to the Parish/Town Council at that time.
- 4.10 Members of Planning Committees not affected by an interest through being Parish/Town Councillors are equally advised to take great care about responding to local opinion and publicly declaring a firm view on a proposal at an early stage. It is important that they do not 'fetter their discretion', but rather leave themselves free to reach a view at District Council level, based on all the facts and information.
- 4.11 The Local Code of Conduct sets out requirements and guidance for Councillors, for the registration and declaration of interests. These must be followed scrupulously and Councillors should review the situation regularly. It must be borne in mind that not only should impropriety be avoided but also any appearance, or grounds for suspicion, of improper conduct.
- 4.12 It is for the individual Councillor to decide whether he or she has an interest in any matter considered by a Planning Committee, and if so whether that interest is a pecuniary or non-pecuniary or other one. Councillors with a pecuniary interest must not speak or vote in the decision making process. The Local Code of Conduct explains the effect of interests on participation.
- 4.13 When declaring an interest at a committee meeting this should be done at the relevant point in the meeting or as soon during the consideration of the matter that the interest becomes apparent. Councillors should be clear and specific in identifying the item on the agenda in which they have an interest and, if so, the nature of that interest. Councillors do not need to declare interests that are not covered by the Code of Conduct, e.g. that they know the applicant, agent or an objector, or that they use the premises the subject of the application. If they feel that such an interest is material they should explain the nature and relevance of it.
- 4.14 Officers must declare any personal or financial interest in any planning matter before the Council, must not deal with such matters on behalf of the Council and must not give advice to Councillors or other Officers on them. An Officer with a personal or financial interest in a planning matter must withdraw from

any relevant committee meeting whilst that matter is discussed. Planning Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental or other pressure or amenity groups.

Gifts and Hospitality

- 4.15 Councillors and Officers should be very cautious about accepting gifts and hospitality and must follow their respective Codes of Conduct.

5 PRE-DISCUSSION AND LOBBYING

- 5.1 This theme is closely linked to issues covered in the previous Probity section. It is inevitable that Councillors will be subject to lobbying, particularly on planning applications. Again, it is emphasised that great care needs to be taken to maintain the integrity of the planning process, the Council, and the Councillor concerned. Lobbying can lead to the impartiality of a Councillor being called into question and could even cause public mistrust of the Council.

Lobbying

- 5.2 Lobbying is an attempt to influence Councillors' views in order to achieve a particular decision. It can be by applicants, agents or objectors or by other Councillors. Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. Planning decisions must be made strictly on the facts and policies relating to each application. Lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of a Councillor being called into question.
- 5.3 Notwithstanding the provisions of s.25 of the Localism Act 2011 (as mentioned in 4.2 above) when being lobbied, Councillors, and members of a Planning Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such circumstances they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant Officer in order that their opinions can be included in the Officer's report to the Committee. If they do express an opinion they should make it clear that they will only be in a position to take a final decision after having received and considered all the relevant evidence and arguments at the Committee meeting.
- 5.4 A Committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If a Member responds to lobbying by deciding to go public in support of, or against, a particular outcome it would be very difficult

for that Member to argue convincingly when the Committee takes its decision that he has carefully weighed the evidence and arguments presented at committee. Although not amounting to a disclosable or other pecuniary interest according to the Code of Conduct the proper course of action for such a Member would be to make an open declaration not to vote. However, this is a severe restriction on the Member's wish - duty, even – to represent the views of the electorate. Councillors should therefore generally avoid organising support for or opposition to a planning application and avoid lobbying other Councillors. Such actions can easily be misunderstood by parties to the application and by the public.

- 5.5 Councillors should not excessively lobby fellow Councillors regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 5.6 Individual Councillors should avoid visiting application sites upon the request of applicants or objectors as this may result in those parties attempting to unduly influence the views of Councillors and give the impression of bias. ~~may often be asked by both applicants and objectors to visit application sites. Such visits may be valuable in gaining an understanding of the implications of proposals.~~ It is important however that the parties are clear in the understanding that the reason for Councillors' involvement in this way is purely to gather information. Where this occurs, Councillors should advise the Director of Planning and Regulatory Services Planning Director and make known their involvement at the relevant Committee meeting at which the application is considered. An approved protocol for site visits organised by a Planning Committee is at Appendix 1.

Pre-application discussion

- 5.7 It is likely that in certain cases discussions will take place between potential applicants and Officers prior to the submission of a planning application. Such discussions may be beneficial in terms of applications being prepared for submission which can then proceed without undue delay to determination. Potential appeals may be avoided by good communication at an early stage of the process. Advice given should be consistent and based on the development plan and material considerations. An approved protocol for Pre-Application Discussions is at Appendix 2.
- 5.8 If Councillors receive information that is relevant to a prospective planning decision they must declare that information to the relevant planning officers and to the committee. Discussions with applicants, agents or objectors should be reported and any correspondence made available to officers before the committee meeting. Where information has been provided to Councillors or Officers on a confidential basis, it shall not be disclosed to third parties.
- 5.9 Where Councillors are acting as agents for people pursuing a planning matter with the Council or submitting planning applications on behalf of their

employers as part of their job, they should make it clear to their clients that they cannot and will not use their position as a Councillor to influence the outcome of an application.

- 5.10 Councillors should not meet applicants or agents or third parties in connection with a current ~~or proposed~~ application. If Councillors do agree to meet they should only do so in the presence of a planning officer. ~~In exceptional circumstances, where it is not possible to arrange a meeting in the presence of a planning officer without causing undue delay, Councillors should notify the relevant planning officer of the proposed meeting beforehand and the notification recorded in the application file.~~ Councillors should listen and may ask questions but should not comment nor seek to negotiate. They must make clear that any views they express are personal, rather than those of the Council. A note should be taken of the meeting and placed on the application file. The fact that a Councillor has discussed any proposal with the applicant, agent, supporters or objectors must be made clear when the application is before the Committee for determination.

Planning Enforcement

- 5.11 Councillors may also become involved in matters that are the subject of a complaint or investigation, and on which enforcement or other legal action may be under consideration. In these circumstances, Councillors are strongly advised to ensure that any action on their part does not prejudice the Council's position, that any enquiries on specific issues are restricted to matters of fact or general case progress, and acknowledge that enforcement cases will be dealt with in accordance with the Council's Planning Enforcement Policy (see Appendix 3).

Contact with Application Case Officer

- 5.12 Councillors will often need to contact the Planning Case Officer on development proposals. Contact should however be limited to requests for factual information and the seeking of advice on progress and the nature of consultation responses received. While Councillors are encouraged to discuss their concerns with Officers, they must should not attempt to influence or pressure Officers in the making of particular recommendations. If a Councillor is unhappy with the way in which a case is progressing, the matter should be discussed with a senior officer of at least Team Leader level.
- 5.13 Officers should remain free of any outside influence to make recommendations on planning matters based on their own professional judgements and having regard to all material and other considerations. Councillors should not put improper pressure on Officers for a particular recommendation and, as required by the Code of Conduct, should not do anything which compromises, or is likely to compromise, their impartiality.

Availability and Veracity of Information

- 5.14 Planning applications must be determined on the basis of the documents and information formally submitted. Any submissions from applicants' agents or objectors which are formally received by the Council can properly be taken into account in making a decision. It can cause problems if Councillors are given information or assurances by applicants which are not part of the formal application and which are not, therefore, enforceable. Problems can also arise if Councillors are given information by objectors which may be misleading, untrue or irrelevant. It can be problematical if officers are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about their relevance or enforceability. Councillors should forward such information to the officers for consideration prior to the Committee meeting.

6 PLANNING DECISION MAKING AND RELATED PROCESSES

Committee Decisions

- 6.1 All planning applications to be determined by a Committee will be the subject of comprehensive, written reports from Officers. These reports will describe the site and the proposal, relevant planning history, development plan policies and other material considerations including, where appropriate, national or local guidance, and also representations made by statutory consultees, local residents and other interested parties. They will also contain an assessment of the proposal against those considerations and a reasoned recommendation. Reports will contain all the relevant material known at the time when produced and published as part of the Agenda for a particular meeting. Councillors should endeavour to obtain factual information from officers prior to the meeting. This can assist in reducing delays which may be caused by deferment to obtain further information.
- 6.2 Sometimes applicants and objectors write directly to Committee Members, after the report has been published, commenting on the report or providing further material. If Planning Services have not been copied into the correspondence, Committee Members should forward any correspondence to the Case Officer as soon as possible.
- 6.3 Any information material to the decision-making process that is received subsequent to the publication of the Committee Agenda and no later than noon on the last working day prior to the meeting will be reported to the Committee at its meeting. At the meeting, the Planning Officer will advise if the late material raises any matters which should be taken into account by the Committee. The Officer report and last-minute papers should be read and plans/photographs seen before decisions are made. Councillors will also have

an opportunity to put questions to Officers and hear the views of their fellow Councillors, the Applicants and other third parties during the course of the debate.

- 6.4 The law requires that where the Development Plan is relevant to a decision, then that decisions should be taken in accordance with it, unless material considerations indicate otherwise (s54A, Town and Country Planning Act, 1990). The Development Plan is therefore the starting point of the decision making process. Proposals having been identified as amounting to a departure from the Development Plan need to be advertised as such. An Officer recommendation to approve contrary to the Development Plan would need to be justified in the most careful terms, and if the Committee is mindful to approve then the application may then need to be referred to the Secretary of State.
- 6.5 Planning decisions will not always be dictated by planning law or policy. They will sometimes be matters of fine judgment where the balancing of considerations may be difficult. The Officer's report and recommendation will be founded on adopted planning policy and guidance. Planning Committee Members should take care, if expressing any opinion on the planning applications before them, that they confine their comments to matters which are material planning considerations. Regardless of any political group discussion prior to the Committee meeting, Committee Members must consider applications on their merits and not simply feel bound by decisions made at group meetings. Committee Members cannot be "whipped" to vote in a particular way; this advice is supported by the Local Government Ombudsman. Any decisions taken in this way may be viewed as maladministration and could be subject to legal challenge.
- 6.6 Where Councillors disagree with the Officer recommendation, a proposition can be made to overturn that recommendation. The Committee remains bound by law to make decisions in accordance with the Development Plan and all other material planning considerations. It will therefore need to demonstrate that this requirement has been met in its deliberations, making clear what material considerations are leading it to a decision contrary to professional advice. Failure to do so could result in an appeal against the decision, with potential for an award of costs against the Council in the event that unreasonable behavior on its part is found. It could also render a decision subject to legal challenge (judicial review).
- 6.7 A proposition contrary to an Officer recommendation, together with the reasoning behind it, needs to be clearly presented and will be recorded in the Minutes. It must then be seconded. Before any debate, the Chairman shall afford the Officers an opportunity to respond to the proposition by way of advice on the implications in terms of risk. Depending on the circumstances and complexity of the case it may be that Officers will need to consider those implications in greater detail and report back. Any proposal for deferment must be disposed of ahead of any conclusion being reached on the decision itself. The Chairman will summarise, or cause to be summarised, the salient

points of the debate and will seek to ensure the terms of the proposition are clearly understood before putting the matter to the vote.

- 6.8 Whilst the Committee must clearly set out the reasons for its decisions contrary to Officer recommendation, the final drafting of conditions and reasons will normally be carried out by Officers. Reasons for refusal must be clear, unambiguous and justified by the evidence of the case. Conditions attached to permissions should be necessary, relevant to planning and the proposed development, enforceable, precise and reasonable in all other respects. The text of non-standard conditions and reasons will be determined by the Director of Planning and Regulatory Services in consultation with the Committee Chairman (or Vice Chairman in his/her absence) following the meeting. The same mechanism will be used for the updating of any [planning conditions agreed by a Committee which may be](#) required through the passage of time between [the a](#)-Committee decision and the issue of a decision notice consequent upon completion of a S106 agreement/planning obligation.
- 6.9 During Committee Meetings, everything said may be scrutinised by Applicants, objectors, legal advisers and the Press, so Councillors and Officers should be circumspect. Councillors who serve on a Planning Committee should ensure they do not speak to members of the public, or pass or accept notes from them, during the course of a meeting. Councillors who leave the room during the Meeting should avoid speaking to any Applicants or objectors/supporters who may be waiting outside the room. Councillors who leave the room during debate or whilst an application is before the Committee will not take part in the debate or vote on that application.
- 6.10 Given the nature of the decisions to be taken, it is vital that [the](#) means by which decisions are reached are clear and understood by everyone present. The role of the Chairman is therefore important. Although the Council's Procedure Rules allow decisions to be reached through general assent of the Councillors present at a meeting, best practice with regard to decisions on Planning Applications suggests that a show of hands is far preferable.

Decisions delegated to Officers

- 6.11 Not all decisions on planning applications and related matters will be taken by a Committee. The Council has agreed, and will keep under review, a Scheme of Delegation (alongside the Terms of Reference of Committees) which enables decisions to be taken by responsible Officers. Decisions taken under delegated powers will be subject to the same process and analysis of the facts and all material considerations, as if they were referred to a Committee for determination. A statement to support each delegated decision will be produced and placed on the case file as a matter of record and also for the benefit of interested Councillors and the public.
- 6.12 Officers take instructions from Councillors only through a decision of the Council or one of its Committees. In the exercise of delegated powers, Officers may in certain cases be required to consult with individual Councillors, and take the views of those individual Councillors into

consideration. Officers must always act impartially and advise the Council according to their own professional opinion.

Deferments

- 6.13 A decision on an application should not be deferred without proper justification. For example, the justification might be to ensure that all the proper information is to hand and this might include a site visit. The reason for requesting a deferment must be clearly set out by the proposer and recorded in the Minutes.

Public Attendance at Committee Meetings

- 6.14 All planning applications referred to a Committee for determination will be considered in public session and all background information will be made available for public inspection upon publication of the agenda papers, unless there are specific reasons for not disclosing or publishing 'exempt information' in accordance with the Local Government Act 1972. Applicants, agents and members of the public, representatives of Parish/Town Councils may speak on planning applications being considered at the meeting. The Council's public participation scheme is at Appendix 5.

7 DEVELOPMENT PROPOSALS BY THE COUNCIL, COUNCILLORS AND OFFICERS

- 7.1 Committee Terms of Reference provide for the determination of planning applications for the District Council's own development or affecting Council land and applications submitted by Council Members or Officers, by a Planning Committee rather than under delegated powers.
- 7.2 Such applications will be ~~processed and handled~~[treated](#) no differently to any other application and the requirements of the Town and Country Planning legislation and ministerial guidance will be followed in the usual way. Officer recommendations and Committee decisions will be made strictly on planning merits without regard to any financial or other gain which might accrue to the Council if the development is permitted, or to other issues which may need more properly to be considered by another Committee of the Council. It is important that the Council not only treats, but is seen to treat such applications the same as any other.
- 7.3 Councillors or Officers proposing to submit a planning application should notify the Monitoring Officer. If a Councillor or Officer submits a planning application, they should take no part in its processing by the authority at any point. It is important that neither Councillors nor Officers take any part in the preparation of Local Development Plan policy or supplementary planning guidance they may influence, or be seen as influencing, with a view to future planning proposals they may wish to submit.

8 PLANNING APPEALS

- 8.1 A Planning Appeals Protocol has been approved and is at Appendix 6. In the event of a decision taken to refuse contrary to the recommendation of the Director of Planning and Regulatory Services, the Committee may nominate a Member to assist in agreeing the precise reasons for refusal and with the preparation and presentation of the Council's case should the decision be appealed.
- 8.2 As referred to earlier, Officers must always act impartially and advise the Council of their professional opinion. Chartered Town Planners are obliged to follow the Royal Town Planning Institute's Code of Professional Conduct. Whilst Chartered Town Planners appearing as the Council's expert witnesses at planning inquiries and hearings have a duty to set out the Council's case, they must, if asked, give their own professional view in accordance with that Code.
- 8.3 The Council is at risk of an award of costs against it if the Planning Inspector finds that there has been unreasonable behaviour. Common examples of unreasonable behaviour are failure to comply with procedural requirements for inquiries or hearings, failure to provide planning evidence to support reasons for refusal, and failure to take into account relevant policy statements in departmental guidance.

9 COMMITTEE SITE VISITS

- 9.1 [Committee Site visits](#) can cause delay and additional costs and should only be used when the expected benefit is substantial. A site visit is only likely to be necessary if the impact of the proposed development is difficult to assess from the plans and any supporting material, including any photographs taken by Officers. [Site visits may be arranged following publication of the agenda and but before the actual meeting.](#)
- [Where requested at the actual meeting,](#) ~~the reason for requesting a site visit~~ must be clearly set out by the proposer and recorded in the Minutes. All site visits must be carried out in accordance with the Council's agreed guidelines set out in Appendix 1 to this document.
- 9.2 Site visits are not part of the formal committee proceedings and are not a forum for debate or making planning decisions. Site visits are not open to the public and should not be used to canvass local opinions or as an opportunity for lobbying or advocacy. Councillors should not express personal opinions during site visits.

10 PLANNING OBLIGATIONS

- 10.1 Under section 106 of the Town and Country Planning Act 1990, the Council as local planning authority may seek planning obligations in connection with

grant of planning permission. Planning Obligations may be given by way of unilateral undertaking or agreement, and for the most part will regulate the use or development of land as distinct from the controls that may be available through the imposition of planning conditions. In addition, they may be used to secure off-site improvements or financial contributions towards local infrastructure provision.

- 10.2 To avoid any public mistrust or suspicion, it is important that arrangements in connection with planning obligations are operated in accordance with the principle that planning permission may not be bought or sold. The Council must conduct any negotiations and arrangements in a way which is seen to be fair, open and reasonable.
- 10.3 If a planning obligation is created in isolation or before a planning application is determined, a copy will be placed as required in Part 1 of the statutory Planning Register and therefore made available for public inspection. Similarly, if a planning obligation is created following determination of an application, a copy will be placed in Part 2 of the Register.

11 ADMINISTRATION

Monitoring of Decisions

- 11.1 The Council should monitor planning decisions taken, on an annual basis, both in terms of quality and consistency. Annually, Councillors will visit a sample of implemented planning permissions to assess the quality of the decisions. The committee should formally consider the annual report and decide whether it gives rise to the need to review any policies or practices. The review may include information identifying the number of cases where Officers' recommendations were not accepted and the outcome of any related appeal decisions. The results of the monitoring will be reported to Councillors along with any recommendations to improve quality, consistency or performance.

Records management

- 11.2 The planning application files should be complete and accurate containing sufficient information and a record of events so that the decision and the process leading to it can be easily understood. Only "background papers" as defined in the Local Government Act 1972 (and listed in committee reports) are automatically available to the public. These would include, in addition to the application document, associated letters and supporting information, replies from consultees and letters from supporters and objectors. The same principles apply to applications determined under Officers' delegated powers.

Such decisions should be as well documented and recorded in the same way as those taken by Committees. These principles apply equally to enforcement and development plan and associated policy matters.

Complaints

- 11.3 Any complaints received about the way in which a planning application or other planning matter has been dealt with in terms of procedures or fairness will be investigated under the Council's complaints procedures. The fact that someone may disagree with the decision the Council has reached is not a complaint which will normally necessitate investigation, although Officers will explain the reasons for the Council's decision in such a case.

12 INTERPRETATION

- 12.1 The Chief Executive, Legal and Democratic Services Manager and Director of Planning and Regulatory Services, as appropriate, will provide advice or clarification on any matters of a planning nature contained within this document or otherwise. Issues of probity or otherwise requiring interpretation should be referred to the Monitoring Officer.

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**Maldon District Council
Policy for the granting of
Discretionary Non-Domestic Rate Relief**



Version Control

<i>Version</i>	<i>Version date</i>	<i>Revised by</i>	<i>Description</i>
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1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the Council's area.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Likewise, certain premises situated within a rural settlement area will be eligible for mandatory relief. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 In addition to the above, Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 1.4 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief and reductions to ratepayers, subject to certain criteria being met. In the case of the new reliefs, some guidance has been issued by Central Government outlining actions expected to be taken by local authorities. This policy includes Government guidance where appropriate but also looks to target discretionary relief in line with the Council's priorities.
- 1.5 This document outlines the following areas:
- Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for the granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and awards;
 - European Union requirements including provisions for State Aid; and
 - The Council's Scheme of Delegation.
- 1.6 Where organisations apply for relief they will be granted (or not granted) relief or reductions in line with the following policy.



2.0 Mandatory Relief - Legislative Background

Charity Relief

- 2.1 The powers relating to the granting of mandatory¹ and discretionary relief are given to the Council under the Local Government Finance Act 1988². Charities and Trustees for Charities are only liable to pay one fifth of the Non-Domestic Rates that would otherwise be payable where property is occupied and used wholly or mainly for charitable purposes. This amounts to mandatory relief of 80%. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. The provision has been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs). Full details of the mandatory provisions are given later within this policy.
- 2.2 In the case of charity shops, the premises must meet the criteria laid down by section 64 (10) of the Local Government Finance Act 1988 which states that the premises are to be treated as used for charitable purposes at any time it is wholly or mainly used for the sale of goods donated to the charity and the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity.
- 2.3 The Council has discretion to grant relief of up to a further 20% for these mandatory cases under its discretionary provisions.

Rural Rate Relief

- 2.4 From 1st April 1998, under powers originally granted to the Council by the Local Government and Rating Act 1997³, certain types of business in rural settlements, with a population below 3000 may qualify for mandatory rate relief of 50 per cent. Businesses that qualify for this relief are the sole general store and the sole post office in the settlement, provided it has a Rateable Value of up to £8500; any food shop with a Rateable Value of up to £8500; and the sole pub and the sole petrol station in the settlement provided it has a Rateable Value of up to £12500.
- 2.5 From 1st April 2017, Central Government has indicated that it wants all authorities to give 100% relief to premises that receive mandatory rural rate relief. The legislation enabling this will not be forthcoming until 2018 and therefore it has indicated that where the additional 50% is granted, a section 31 grant will be made available to the Council. This is dealt with further within this policy and the Council will automatically grant the additional 50% discretionary relief where appropriate
- 2.6 Where businesses in rural settlements have a Rateable Value of up to £16,500 **and** are not in receipt of mandatory relief, the Council may decide to give up to 100 per cent discretionary relief if it is satisfied

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

³ LGFA 1988, s.47, as amended by Sch. 1 to the Local Government and Rating Act 1997



that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.



3.0 Discretionary Relief – Legislative Background

Introduction

- 3.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to 'top' up cases where ratepayers already receive mandatory relief.
- 3.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 3.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 3.4 Unlike mandatory relief, ratepayers are obliged to make a written application to the Council. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information and evidence as required in order to determine whether relief should be awarded.
- 3.5 The Council is obliged to consider carefully every application on its merits, taking into account the contribution that the organisation makes to the amenities within the authority's area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made. Details of the internal review process are given within this policy.
- 3.6 Granting of the relief falls broadly into the following categories:
- a. Discretionary Relief – Charities who already receive mandatory relief.
 - b. Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
 - c. Discretionary Relief – Rural Rate relief - premises that already receive mandatory relief;
 - d. Discretionary Relief – Rural Rate relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
 - e. Discretionary Relief – Granted under the Localism Act 2011 provisions;
 - f. Local Newspaper Relief (from 1st April 2017 for a period of two years);
 - g. Local Public House Relief (from April 2017 for a one year period);
 - h. Supporting Small Businesses Relief (from 1st April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge (calculated in accordance with the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016)); and
 - i. Discretionary Business Rates Relief Scheme (from 1st April 2017 for a period of up to four years)
- 3.7 The decision to grant or not to grant discretionary relief is a matter purely for the Council.



The Council's general approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- a. The awarding of relief will be in line with the Council's vision and values. Details can be found at
 - b. That any award should support business, charities, organisations and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
 - c. It should help and encourage business, charities, organisations, groups and communities to become self-reliant;
 - d. Awarding discretionary relief should not distort competition or significantly change the provision of services within the Council's area;
 - e. Local organisations will be given priority over national organisations. Where requested, the organisation will need to supply the Council with clear evidence of **all** financial affairs (normally two full years) including, and most importantly, the amounts of monies raised, used and invested locally. This will be essential where the organisation is national in nature;
 - f. To enable appropriate organisations to start, develop or continue their activities, which deliver outcomes to the community and that also relate to the priorities of the Council, which without granting discretionary relief they would be unable to do;
 - g. To assist the Council in delivering services which could not be provided otherwise;
 - h. To enable the Council to determine the level of rate change in comparison with the organisation's financial situation; and
 - i. To ensure that the financial impact of awarding discretionary business rate relief is justified in terms of the local outcomes achieved by the organisation receiving it;
- 3.9 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then there will be no requirement to grant Discretionary Rate Relief for that amount.
- 3.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

The Council's approach to granting Government led Discretionary Relief schemes

- 3.11 Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988 and guidance is often provided. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.





4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, in the main, involve a cost to the Council. Since the change to the funding for Non-Domestic Rating in April 2013, the effect of the relief is complex.
- 4.2 Any amounts granted prior to 1st April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. For any amounts granted for similar cases after 1st April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government, 40% by the Council and 10% by Essex County Council. This also applies where mandatory relief is granted.
- 4.3 Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas
- 4.4 The financial effects of discretionary reliefs covered by this policy are as follows:

Appendix	Relief Type	Granted after 1 st April 2013
	Charity Relief	
A	Discretionary relief granted to Mandatory Relief recipients	40% borne by the Council
B	Non-profit Making Organisations including Sports Clubs and societies	40% borne by the Council
	Rural Rate Relief	
C	50% Discretionary relief granted to Mandatory Rural Relief recipients	Section 31 Grant
D	Other premises within a rural settlement under £16500 RV	40% borne by the Council
	Localism	
E	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	Local Newspaper Relief	
F	Discretionary Relief granted to local newspapers meeting the criteria (From 1 st April 2017 for a period of two years)	Section 31 Grant
	Public House Relief	
G	Discretionary Relief granted to public houses meeting the criteria (From 1 st April 2017 for a period of one year)	Section 31 Grant
	Supporting Small Business Relief	
H	Supporting Small Businesses Relief (from 1 st April 2017 for a period of up to five years if conditions are met)	Section 31 Grant



Appendix	Relief Type	Granted after 1st April 2013
	Discretionary Business Rates Relief Scheme	
I	Discretionary Business Rates Relief Scheme (from 1 st April 2017 for a period of up to four years)	Section 31 Grant up to a maximum level set by Central Government. Once the maximum has been reached any additional amount is borne 40% by the Council
	S49 Hardship Relief	
J	Partial or full relief for cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers	40% borne by the Council



5.0 Discretionary Relief – EU State Aid requirements

- 5.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.
- 5.2 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.
- 5.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)⁴. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three-year period (consisting of the current financial year and the two previous financial years).
- 5.4 Where the relief to any one business is greater than the De Minimis level, then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government (DCLG) for advice and then referred back to the Council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.
- 5.5 In all cases, where discretionary relief is to be granted or where liability is to be reduced, when making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case.

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>



6.0 Administration of Discretionary Relief

- 6.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief and reduction. This is essentially laid down by legislation⁵

Applications and Evidence

- 6.2 All reliefs must be applied for. Application forms are produced by the Council both in hard copy and electronic format. The relevant application forms available on line using the following links

- [General Discretionary application form](#)
- [CASC, charities and not for profit additional questions](#)

- 6.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts (normally the last two years), financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.

- 6.4 Applications should initially be made to the Revenues and Benefits Services and will be determined in accordance with Section 7 of this policy.

- 6.5 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties.**

Granting of relief

- 6.6 In all cases, the Council will notify the ratepayer of decisions made.
- 6.7 Where an application is successful, then the following will be notified to them in writing:
- The amount of relief granted and the date from which it has been granted;
 - If relief has been granted for a specified period, the date on which it will end. (It should be noted that reliefs are granted for the period specified in the appropriate Appendix and may vary from a day to a full financial year);
 - The new chargeable amount;
 - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and

⁵ The Non-Domestic Rating (Discretionary Relief) Regulations 1989



- A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 6.8 Where relief is not granted, then the following information is provided, again in writing:
- An explanation of the decision within the context of the Council's statutory duty; and
 - An explanation of the appeal rights (see below).
- 6.9 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision.
- 6.10 A decision to award discretionary relief and how much relief is given is normally only applicable to the financial year for which the application is made. However, the Council reserves the right to grant relief for any other period as appropriate.
- 6.11 A fresh application for discretionary relief will be necessary for each financial year **or** at such time-period as the Council determines.

Variation of a decision

- 6.12 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge or a change in the Council's decision which increases the award – this will apply from a date determined by the Council as appropriate;
 - Where the amount is to increase for any other reason, it will take effect at the expiry of a financial year and so that at least one year's notice is given;
 - Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and
 - Where the amount is to be reduced for any other reason, it will take effect from a date determined by the Council as appropriate;
- 6.13 A decision may be revoked at any time however; a one year period of notice will be given and the change will take effect at the expiry of a financial year.



7.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 7.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 7.2 The Council's scheme of delegation allows for the Customers Officer to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature will be subject to consultation with the relevant executive or committee prior to final determination.
- 7.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Reviews

- 7.4 The policy for granting relief will be reviewed annually or where there is a substantial change to the legislation or funding rules. At such time, a revised policy will be brought before the relevant committee of the Council.

Appeals

- 7.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Customers Manager(s). Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 7.6 Where the ratepayer wishes to appeal the decision of the Customer Manager (s) the case will be considered by the Section 151 officer or relevant Executive member whose decision on behalf of the Council will be final
- 7.7 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.



8.0 Reporting changes in circumstances

- 8.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 8.2 Where a change of circumstances is reported, the relief will, if appropriate, be revised or cancelled as appropriate. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

9.0 Fraud

- 9.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.



Appendix A

Discretionary Relief - Mandatory Relief recipients



Discretionary Relief - Mandatory Relief recipients

General Explanation

- A.1 S43 of the Local Government Finance Act 1988 allows mandatory relief (80%) to be granted on premises if the ratepayer is a charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes. No charge is made in respect of unoccupied premises where it appears that *when next in use* it will be used wholly or mainly for those purposes.
- A.2 The legislation has been amended by the Local Government Act 2003 (effective from 1st April 2004) to include registered⁶ Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

Charity registration

- A.3 Charities are defined within the legislation as being an institution⁷ or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- A.4 The question as to whether an organisation is a charity may be resolved in the majority of cases by reference to the register of charities maintained by the Charity Commissioners under s.4 of the Charities Act 1960. Entry in the register is conclusive evidence. By definition, under the Non-Domestic Rating legislation, there is no actual need for an organisation to be a registered charity to receive the relief and this has been supported by litigation⁸, however in all cases the organisation must fall within the following categories:
- trusts for the relief of poverty;
 - trusts for the advancement of religion;
 - trusts for the advancement of education; and
 - trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.
- A.5 Certain organisations are exempted from registration generally and are not required to make formal application to the Charity Commissioners these are:
- the Church Commissioners and any institution administered by them;
 - any registered society within the meaning of the Friendly Societies Acts of 1896 to 1974;
 - units of the Boy Scouts Association or the Girl Guides Association; and
 - voluntary schools within the meaning of the Education Acts of 1944 to 1980.
- A.6 The Council will consider charitable organisations, registered or not, for mandatory relief.

⁶ Registered with HMRC as a CASC

⁷ S67(10) Local Government Finance Act 1988

⁸ Income Tax Special Commissioners v Pemsell (1891)



Use of Premises - wholly or mainly used

- A.7 Irrespective of whether an organisation is registered as a charity or not, the premises **must** be wholly or mainly used for charitable purposes. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection, but on occasions the Council has had to question the actual use to which the premises are to be put. In some cases, it will be necessary for the Council to inspect any premises fully.
- A.8 Guidance from the Department of Communities and Local Government (DCLG) has stated that in the case of 'mainly', at least 51% must be used for charitable purposes whether of that charity or of that and other charities
- A.9 The following part of this section gives details on typical uses where relief may be given plus additional criteria that have to be satisfied. The list is not exhaustive but gives clear guidance on premises for which mandatory relief can be granted *and therefore* premises which may be equally considered for discretionary rate relief.

Offices, administration and similar premises

- A.10 Premises used for administration of the Charity include:
- Offices;
 - Meeting Rooms; and
 - Conference Rooms.

Charity shops

- A.11 Charity shops are required to meet additional legislative criteria if they are to receive mandatory relief. Section 64 (10) of the Local Government Finance Act 1988 provides that a property is to be treated as being wholly or mainly used for charitable purposes at any time if, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.
- A.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by an officer of the Council when an application is received

Granting of Mandatory Relief - the Council's Policy

- A.13 Where the criteria for awarding mandatory relief are met, the rate charges shall be calculated in accordance with the legislation reducing the liability of ratepayers for each day that the criteria are met.



Charity Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.

- A.14 The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case-by-case basis.
- A.15 In determining the application, the following matters will be taken in to consideration:
1. How the charity supports and links into the Council’s corporate vision and priorities;
 2. The purpose of the charity and the specific activity carried out within the premises for which the relief is requested; and
 3. Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity. The Council is keen to ensure that the organisation provides significant benefit to local residents.
- A16 The Council is keen to support businesses that have a critical role to play in the local economy and to assist the Council in meeting the Corporate aims and values.
- A.17 In the case of registered Community Amateur Sports Clubs, the key criteria in determining the application will be:
1. The ratepayer occupies the whole hereditament;
 2. Relief cannot be granted in respect of premises that are occupied by the Council or precepting authority;
 3. How the CASC supports and links into the Council’s corporate vision and priorities;
 4. The membership and fee structure, and whether the CASC is accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
 5. Membership numbers and the number and percentage of these members that are local residents;
 6. If the CASC has due regard to equality issues and if it actively encourages members from under-represented groups, for example black and minority ethnic residents, people over 50 and people with disabilities;
 7. Whether facilities are available to the wider community regardless of ability; and
 8. If the CASC runs a bar or food provision: the level of income from this activity and how this money is used; and whether the CASC operates at a local or national level and where appropriate, the local and national funding streams and financial position of the CASC.
- A.18 The Council wishes to support and enable appropriate businesses to start, develop and continue with their operations that deliver outcomes directly related to the Council’s aims and vision. In the main, this will be done through other means rather than granting discretionary relief. There may be occasions where applications are made for such relief or where a package of measures, including discretionary relief, are appropriate in supporting businesses. This would need to be in accordance with any limitations in respect of state aid.



Appendix B

Discretionary Relief - Non-Profit Making Organisations including Recreation



Discretionary Relief - Non-Profit Making Organisations including Recreation

General explanation

Non-Profit

- B.1 The legislation⁹ allows the Council to grant discretionary relief where the property is not an *excepted* one and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.
- B.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- B.3 A number of issues arise from the term 'not established or conducted for profit'. This requires the Council to make enquiries as to the overall purpose of the organisation although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation then it does not necessarily mean that the organisation was established or conducted for profit.¹⁰

Recreation Clubs

- B.4 Ideally all recreation clubs should be encouraged to apply for Community Amateur sports Club (CASC) status, which would automatically entitle them to 80% relief. The relief granted to CASCs is covered earlier within this policy.
- B.5 Recreation clubs can also apply to the Charity Commissioners for registration as a Charity (thereby falling under the mandatory provisions for 80% relief) where they meet the following conditions:
- a. The promotion of community participation in healthy recreation and by the provision of facilities for the playing of particular sports; and
 - b. The advancement of the physical education of young people not undergoing formal education.
- B.6 Where sports clubs do not meet the CASC requirement, and are not registered charities, discretionary relief can be granted (0-100%) where the property is not an *excepted* one, it is wholly or mainly used for purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

⁹ S47 Local Government Finance Act 1988



Definition of Recreation

B.7 Recreation is clearly defined by the Sports Council as any of the following¹¹

Aikido	Croquet	Kabaddi	Real Tennis	Tang Soo Do
American Football	Crossbow	Karate	Roller Hockey	Tenpin Bowling
Angling	Curling	Kendo	Roller Skating	Trampolineing
Archery	Cycling	Korfball	Rounders	Triathlon
Arm Wrestling	Disability Sport	Lacrosse	Rowing	Tug of War
Association Football	Dragon Boat Racing	Lawn Tennis	Rugby League	Unihoc
Athletics	Equestrian	Life Saving	Rugby Union	Volleyball
Australian Rules Football	Fencing	Luge	Sailing	Water Skiing
Badminton	Fives	Modern Pentathlon	Sand/Land Yachting	Weightlifting
Ballooning	Flying	Motor Cycling	Shinty	Wrestling
Baseball	Gaelic Football	Motor Sports	Shooting	Yoga
Basketball	Gliding	Mountaineering	Skateboarding	
Baton Twirling	Golf	Movement, Dance, Exercise & Fitness	Skiing	
Biathlon	Gymnastics	Netball	Skipping	
Bicycle Polo	Handball	Orienteering	Snowboarding	
Billiards and Snooker	Hang/Para Gliding	Parachuting	Softball	
Bobsleigh	Highland Games	Petanque	Sombo Wrestling	
Boccia	Hockey	Polo	Squash	
Bowls	Horse Racing	Pony Trekking	Skater/Street Hockey	
Boxing	Hovering	Pool	Sub-Aqua	
Camogie	Hurling	Quoits	Surf Life Saving	
Canoeing	Ice Hockey	Racketball	Surfing	
Caving	Ice Skating	Rackets	Swimming & Diving	
Chinese Martial Arts	Jet Skiing	Raquetball	Table Tennis	
Cricket	Ju Jitsu	Rambling	Taekwondo	
	Judo			

Access to clubs

B.8 Guidance issued by the DCLG also requires the Council to consider access to clubs within the community before granting discretionary relief.

B.9 Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.

¹¹ Definition last reviewed by Sport England in 2002



- B.10 Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and unemployed. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.
- B.11 The Council also asks the following question to help establish the level of access 'Does the organisation actively encourage membership from particular groups in the community e.g. young people, women, older age groups, persons with disability, ethnic minorities' etc.?'

Provision of facilities

- B.12 Clubs which provide training or education are encouraged, as are those who provide schemes for particular groups to develop their skills e.g. young people, the disabled, retired people.
- B.13 A number of organisations run a bar. The mere existence of a bar will not in itself be a reason for not granting relief. However, the Council focuses on the main purpose of the organisation. The Council is encouraged to examine the balance between playing and non-playing members.
- B.14 Within this area, the Council also considers whether the facilities provided relieve the Council of the need to do so, or enhance and supplement those that it does provide.

Discretionary Relief - Non-Profit Organisations including Recreation - the Council's Policy

- B.15 The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. In determining the application, the following matters will be taken in to consideration (The list is not exhaustive):
- How the organisation supports and links into the Council's corporate vision and priorities;
 - Whether the facilities provided include education and/or training for members as a whole or for special groups;
 - The extent to which the facilities provided reduce the demand for Council services or produce savings;
 - Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
 - If covered by a membership scheme, membership numbers and the number and percentage of these members that are local residents; and
 - If the organisation has due regard to equality issues and if its facilities are used by all members of the community, for example black and minority ethnic residents, people over 50 and people with disabilities.
- B.16 The Council will also require additional financial information including:
- If the organisation runs a bar or food provision, the level of income from this activity and how this



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- money is used.; and
- Whether the organisation operates at a local or national level and where appropriate, the local and national funding streams and financial position of the organisation.



Appendix C

Discretionary Relief - Rural Rate Relief - Mandatory Relief recipients



Discretionary Relief - Rural Rate Relief - Mandatory Relief recipients

What are the qualifying criteria for Mandatory Relief?

- C.1 For a Post Office or General Store to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2010);
 - The property must be used as a Post Office or a General Store (see below for definition), or both;
 - The property must be the only Post Office or the only General Store within the Rural Settlement.
- C.2 For a Public House or Petrol Filling Station to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £12,500 (from 1 April 2010);
 - The property must be used as a Public House (see below for definition) or a Petrol Filling Station (see below for definition); and
 - The property must be the only Public House or the only Petrol Filling Station within the Rural Settlement.
- C.3 For a village food shop to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2010); and
 - The property must be used as a shop selling mainly food (see below for definition).

What rural settlements exist within the Maldon District Council's area?

- C.4 The following are deemed to be rural settlements within the District Council's area:

Althorne - North	Althorne _ South	Asheldham
Bradwell-On-Sea	Bradwell Waterside	
Cold Norton		
Dengie		
Goldhanger	Great Braxted	Great Totham - North
Great Totham -South		
Hazeleigh	Heybridge Basin	
Langford	Latchingdon	Little Braxted
Little Totham		
Mundon		
North Fambridge -North	North Fambridge -South	
Purleigh		
St. Lawrence	Steeple	Stow Maries
Tillingham	Tollesbury	Tolleshunt D'arcy
Tolleshunt Knights	Tolleshunt Major	
Ulting		
Wickham Bishops	Woodham Mortimer	Woodham Walter



What is the definition of a General Store?

- C.5 For the purposes of Rural Rate Relief, 'General Store' means a business or trade, which wholly or mainly sells by retail both food (other than confectionery) for human consumption and general household goods. Where there are two or more General Stores within the same Rural Settlement, none can qualify for Mandatory Relief on that basis, although if one of them functions as a Post Office or a Food Shop relief may be claimed independently on that ground. However, both a General Store and a Post Office in the same Rural Settlement will qualify for Mandatory Relief, provided that, they both meet the criteria. Although a General Store or a Post Office may not meet the criteria for Mandatory Relief, they may still be eligible to apply for Discretionary Relief.

What is the definition of a Public House?

- C.6 For the purposes of Rural Rate Relief, 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises must be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.

What is the definition of a Petrol Filling Station?

- C.7 For the purposes of Rural Rate Relief, 'Petrol Filling Station' means premises where petrol or other automotive fuels are sold retail to the general public for fuelling motor vehicles intended or adapted for use on roads

What is the definition of a Food Shop?

- C.8 For the purpose of Rural Rate Relief, 'Food Shop' means a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and catering – in this context catering means any supply of food for consumption on the premises on which it is supplied and any supply of hot food for consumption off the premises). This definition may also include shops, which sell mainly household foods and which may partly also sell hot take away food or food consumed on the premises. But shops whose main business is a restaurant, tearoom, take-away, or confectionery sales are not food shops and so will not qualify for mandatory relief.

What are the qualifying criteria for Discretionary Relief?

- C.9 The Council may grant up to 50% Discretionary Relief in respect of any property which qualifies for 50% Mandatory Relief and the Council may also grant up to 100% Discretionary Relief to any rural business which does not meet the mandatory provisions. It should be noted that for 2017 onwards Central Government has requested that Council grant 50% discretionary relief to all ratepayers who receive 50% mandatory rural rate relief.

Rural Rate Relief – Mandatory Relief recipients, the Council's Policy for granting discretionary relief.



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- C.10 As Central Government has requested and fully funds any additional relief granted to ratepayers who receive mandatory rural rate relief, the Council will automatically grant the additional 50% until such time as primarily legislation is changed.



Appendix D

Discretionary Relief - Premises within Rural Settlements



Discretionary Relief – Premises within Rural Settlements

- D.1 In addition to having the ability to grant discretionary relief to those in receipt of mandatory relief, the Local Government and Rating Act 1997 allows discretionary relief of up to 100% to be granted where the rateable value is £16500 or less and:
- a. Property is used for purposes which are of benefit to the local community; and
 - b. It would be reasonable for the billing authority to award relief, having regards to the Council's Council Taxpayers.
- D.2 As with most discretionary relief, part of the cost, is met by Central Government and the balance from local sources.
- D.3 The main criteria for granting discretionary relief in respect of rural rate relief is that premises are used to benefit the local community.

Benefit to the local community

- D.4 Whilst each application for the relief will be considered on its own merits, there are certain factors which weigh heavily in the decision-making process. It is this Council's belief that the spirit of the legislation is to assist businesses and amenities, which contribute significantly to the quality of life of the people who have their main home in the Rural Settlement.
- D.5 To be successful for consideration, a business must show that its existence is a significant benefit to the local community with the majority of local residents directly benefiting from services or facilities provided by that business

Rural Rate Relief – the Council's Policy for granting discretionary relief.

- D.6 The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief up to a maximum of 100%.
- D.7 In determining the application the following matters will be taken in to consideration:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
 - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
 - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
 - The business is considered by the Council to be essential to the community and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement;



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- The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the District.



Appendix E

Discretionary Relief - Localism Act 2011



Discretionary Relief – Localism Act 2011

General explanation

- E.1 Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988. These provisions allow all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Tax payers of its area.
- E.2 The provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Tax payers.

Discretionary Relief – Localism – the Council’s Policy

- E.3 Applications will be considered from any ratepayer who wishes to apply. However, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council’s discretionary relief policy.
- E.4 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, non-profit making organisations etc.) must meet **all** of the following criteria and the amount of relief granted will be dependant on the following key factors:
- a. The ratepayer **must not** be entitled to mandatory rate relief (Charity or Rural Rate Relief);
 - b. The ratepayer **must not** be entitled to Central Government funded reliefs;
 - c. The ratepayer **must not** be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
 - d. The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
 - e. The premises and organisation **must** be of *significant* benefit to residents of the Council’s area;
 - f. The premises and organisation **must** relieve the Council of providing similar facilities;
 - g. The ratepayer **must**;
 - a. Provide facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups; **or**
 - b. Provide *significant* employment or employment opportunities to residents of the Council; **or**
 - c. Provide the residents of the area with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation;
 - h. The ratepayer **must** demonstrate that assistance (provided by the discretionary rate relief) will be for a *short time only* **and** that any business / operation is financially viable in the medium and long term;
 - i. whether the premises occupied are considered to be reasonable having regard to the size and location of the premises, the size and nature of the organisation, and the use being made of the premises by the organisation; **and**



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- j. The ratepayer **must** show that the activities of the organisation are consistent with the Council's core values and priorities.
- E.5 Where a ratepayer can demonstrate that **all** of the above criteria are met, relief will be considered for initially a short period.
- E.6 A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements as specified within section 6 of this policy.



Appendix F

Local Newspaper Relief



General Explanation

- F.1 This is a temporary relief for 2017-18 and 2018-19 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- F.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

Eligibility criteria

- F.3 The scheme will provide a £1,500 relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament, for two years from 1 April 2017.

Local Newspapers

- F.4 The relief is to be specifically for local newspapers and by that, the Council means what would be considered a "traditional local newspaper." The relief will not be available to magazines.

Office Space

- F.5 The hereditament **must** be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

Amount of Relief

- F.6 The amount of relief is limited to a maximum of one discount per newspaper title (e.g. per newspaper name) **AND** per hereditament. As with all discretionary rate relief, any grant will be subject to State Aid limits as defined within section 6 of this policy.

Local Newspaper Relief – the Council's policy for granting discretionary relief.

- F.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.



Appendix G

Supporting Small Businesses Relief



General Explanation

- G.1 Central Government has increased the thresholds for Small Business Rate Relief from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. They have also allowed rural rate relief to be granted up to 100% using S47 of the Local Government Finance Act 1988 as a top up to the mandatory level of 50%, albeit that the rateable value limits have not been changes in respect of rural hereditaments (see section D of this policy). Unfortunately, despite these changes, some small businesses and businesses in rural areas may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1st April 2017.
- G.2 The transitional relief scheme (provided under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265) does not provide support in respect of changes in reliefs. Therefore, those ratepayers who have lost some or all of their small business or rural rate relief may face large percentage increases in bills from 1 April 2017.
- G.3 In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or rural rate relief due to the revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.
- G.4 The relief is known as the 'Supporting Small Businesses Scheme'

Who is eligible for the relief and how much relief will be available?

- G.5 The Supporting Small Businesses relief will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their small business or rural rate relief and, as a result, are facing large increases in their bills.
- G.6 To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited **to the greater of:**
- a. a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation. (Unlike the transitional relief scheme under the Chargeable Amount regulations), for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief; **or**
 - b. a cash value of £600 per year (£50 per month).
- G.7 This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.
- G.8 In the first year of the scheme, this means all ratepayers losing some or all of their small business



rate relief or rural rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter. This means that ratepayers who in 2016/17 paid nothing under small business rate relief and are losing all of their entitlement to relief (i.e. moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5.

- G.9 The Government has also decided that those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme.
- G.10 Ratepayers will remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme (this would be the charge payable as their true rates payable or the charge calculated under the Non-Domestic Rating (Chargeable Amounts)(England) Regulations 2016).
- G.11 A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme **but** eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- G.12 The rules for state aid (as detailed in section 6 of this policy) shall apply when considering Supporting Small Businesses Relief.

Recalculation of relief

- G.13 The amount of relief awarded under the Supporting Small Businesses relief scheme will be recalculated in the event of a change of circumstances including the following:
- This could include, for example, a backdated change to the rateable value or the hereditament; or
 - The awarding of another relief.
- G.14 The Council will, in effect, calculate the award on a daily basis taking into account the above, and the relief will be re-calculated if the rateable value changes.

Other Reliefs

- G.15 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. Likewise, the same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill found under the Supporting Small Business scheme.
- G.16 In accordance with Central Government guidelines, all other discretionary reliefs, will be considered **after** the application of Supporting Small Businesses relief.



Supporting Small Businesses Relief - the Council's policy for granting discretionary relief.

G.17 The Council has decided to grant relief strictly in accordance with Central Government guidelines



Appendix H

Public House Relief



General Explanation

- H.1 This is a temporary relief for 2017-18 and the Government is not changing the legislation around the reliefs available to premises. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988) to grant £1000 relief in line with the eligibility criteria set out in guidance to be produced by Central Government
- H.2 Central Government guidelines have been issued and it has been established that any amount granted will be reimbursed by a section 31 grant.

Eligibility criteria

- H.3 The Council's policy, in line with Central Government requirements, will provide a relief of £1,000 relief for one year only (1st April 2017 to 31st March 2018) for all eligible public houses who have a rateable value of less than £100,000 on 1st April 2017.
- H.4 The definition of a 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises **must** be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.
- H.5 It will be for the Council to decide whether any premises falls within the definition give in the above paragraph. No relief shall be given where the premises are unoccupied.

Other Reliefs

- H.4 Pubic House relief will be granted after applying any other mandatory reliefs and reductions

Public House Relief - the Council's policy for granting discretionary relief.

- H.5 The Council has decided to grant relief strictly in accordance with Central Government guidelines.



Appendix I

Discretionary Business Rate Relief Scheme



General Explanation

- I.1 In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need.
- I.2 Every authority within England is to be provided with a share of a £300 million fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988.
- I.3 Government also believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies.
- I.4 The funding is not provided equally over the four-year period but in the following approximate proportions:
- Year 1 (2017/18) 58%
- Year 2 (2018/19) 28%
- Year 3 (2019/20) 12%
- Year 4 (2020/21) 2%
- I.5 Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003. The Government has decided that any underspend **cannot** be 'vired' from one year to the next.
- I.6 A key criteria of reimbursement will be that all Billing Authorities will consult with major precepting authorities when formulating their schemes.
- I.7 The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table

Amount of discretionary fund awarded (£000s) - Maldon District Council			
2017-18	2018-19	2019-20	2020-21
115	56	23	3



Consultation

- I.8 The Council has consulted with the major preceptors in relation to this scheme and has taken their comments into account when determining the eligibility criteria. This is an essential part of the Discretionary Business Rates Relief Scheme and is in line with the grant determination issued by the Department of Communities and Local Government (DCLG) No.31/3071.
- I.9 The grant determination states that a condition of the fund is that consultation is undertaken with 'relevant authorities'. Relevant authorities for the purposes of this scheme means:
- a. Any major precepting authority; and
 - b. Any combined authority.
- I.10 In the case of the District Council the major precepting authorities have been consulted namely:
- a. Essex County Council
 - b. The Police and Crime Commissioner for Essex; and
 - c. Essex Fire and Rescue Service.

State Aid

- I.11 The rules relating to State Aid (as defined within section 6 of this policy) apply. The Council will ensure full compliance in this area to ensure that relief can be given to the most deserving ratepayers.

Decisions by the Council

- I.12 Decisions by the Council are made directly in line with the Scheme of Delegation as outlined within section 7 of this policy. Any decision to award relief under this scheme will follow the core principles of the Council's discretionary relief policy as defined by section 3.8.
- I.13 It should be noted that whilst the funding from Central Government for Discretionary Business Rate Relief Scheme is limited, the decision of the Council whether to award any relief under this scheme **will not take account** of the level of any funding.

Discretionary Business Rate Relief Scheme- the Council's policy for granting discretionary relief.

Applications for relief under this scheme

- I.14 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application.



Discretionary Business Rate Relief Scheme- the Council's policy for granting discretionary relief.

- I.15 The Council has decided that relief under the scheme will be awarded using the following criteria:
- a. Priority will be given to businesses with a new rateable value of between £12,000 and £50,000;
 - b. Priority will be given where rates that are payable increase by more than 20% in 2017-18 (due to revaluation) after any reliefs have been granted;
 - c. The ratepayer must:
 - have had an occupied rates liability during the period 1st April 2016 to 31st March 2017;
 - have been trading from the premises;
 - not have qualified for Mandatory Charity Relief or Supporting Small Business Relief scheme;
 - not have received State Aid in a three-year period, including the current year, in excess of €200,000 euros;
 - not have more than two occupied rateable properties in the United Kingdom
 - d. Relief will be recalculated if there is a rateable value reduction or if another relief is applied that affects liability, or there is any other change in liability;
 - e. Relief will not apply where properties are entered into the list retrospectively
- I.16 Any business can apply, if they meet the criteria in the policy however priority for the allocation of the funding will be given to support small to medium retail businesses.

Amount of Relief

- I.17 The amount of relief is tapered and will be calculated as follows:
- 2017/18**
The award will be up to £1000 where the ratepayer meets the criteria in I.15
- Future years**
To be determined by the authority

Applications for relief under this scheme

- I.18 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application

Variation and amendment of relief under the scheme

- I.19 As with all reliefs, the amount of relief awarded under the Discretionary Businesses Rates relief scheme will be recalculated in the event of a change of circumstances. This will include, for example, a



backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

- I.20 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.



Appendix J

Section 49 - Hardship Relief



Section 49 – Hardship Relief

General explanation

- J.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.

Section 49 Hardship Relief – the Council’s Policy

- J.2 The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. The Customer Manager (s) will consider applications. Application forms are available at the following links:

- [General Discretionary application form](#)
- [Hardship Discretionary additional questions](#)

- J.3 In making decisions on whether to award the relief the Council takes into account the following criteria (not listed in any priority):

- Any reduction or remission of rates on the grounds of hardship should be the exception rather than the rule;
- Any reduction of the rates must be shown to be significant to the future viability of the business;
- The business must continue to trade;
- Cash flow forecasts for a minimum of the next twelve months must be provided together with a comprehensive Business Plan incorporating a brief history of the business;
- The test of "hardship" is not strictly confined to financial hardship and that this, in itself, is not a deciding factor;
- The loss of the business would reduce amenities of an area if it is the sole provider of a service in the area;
- Details of any state aid, grants or subsidies either from central or local government over the previous three years;
- The loss of the business would worsen the employment prospects in the area;
- The interests of the Council Tax payers of the area would be best served by awarding the relief;
- The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial hardship;
- The business provides employment to local residents in an area where employment opportunities are limited;
- Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the business;
- Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation; and
- The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application.

Maldon District Council Equality Analysis

Please complete the questions below as fully as possible - the boxes will expand to accommodate your text. Please include the document version in the footer below.

<p>Title Council Tax Support scheme for 2018 / 19</p>	<p>Date November 2017</p>	<p>Officer Preparing Al Morrell</p>
<p>1. Background</p>		
<p>1.1 Description of proposal / policy / service (Including aims, outcomes and in the case of an existing service how long it has been delivered in its current format)</p> <p>Council Tax Support aims to help people with low incomes to meet their Council Tax obligations, covering payment of Council Tax and Discounting of Council Tax</p> <p>The aim of Council Tax Support is</p> <ul style="list-style-type: none"> • To have a fair and equitable scheme • To maintain support for particularly vulnerable people within the constraints imposed by Government policy <p>The service areas or partner agencies involved are</p> <ul style="list-style-type: none"> • Maldon District Council • Any authority that can levy a charge to contribute to Council tax • Essex authorities who are sharing the scheme • All Essex precepting authorities • Department for Work and Pensions • Department for Communities and Local Government 		
<p>1.2 Who are the users of the proposal / policy / service (Refer to data held about the users of the service i.e. numbers of users, demographic breakdown. Having this information is important to understand which sectors of the community might be affected. If that is not available refer to the demographic data held on the intranet.)</p> <p>Broadly, this affects those liable for Council Tax within the District and adults on a low income with low savings</p> <p>There are 3382 Council Tax Support Claimants* of which 1528 are working age. The breakdown of which is as follows (*as at 1 October 2017)</p>		

Maldon District Council Equality Analysis

Please complete the questions below as fully as possible - the boxes will expand to accommodate your text. Please include the document version in the footer below.

2017/18	All Groups	3382
	Elderly (Total)	1854
	Working Age (Total)	1528
4	Elderly-Passported	1094
6	Elderly-Non-Passported	760
7	Working Age-Passported-War Pensioners	0
9	Working Age-Passported-Severe Disability	148
11	Working Age-Passported-Enhanced Disability	145
13	Working Age-Passported-Disability	35
15	Working Age-Passported-Carer	80
17	Working Age-Passported-Disabled Child Premium	8
19	Working Age-Passported-Lone Parent Child Under 5	132
21	Working Age-Passported-Child Under 5	26
23	Working Age-Passported-Family Premium - 5 and Above	0
25	Working Age-Passported-Family Premium - 4 Child	4
27	Working Age-Passported-Family Premium - 3 Child	10
29	Working Age-Passported-Family Premium - 2 Child	36
31	Working Age-Passported-Family Premium - 1 Child	58
33	Working Age-Passported-Family Premium	11
35	Working Age-Passported-Working	2
37	Working Age-Passported-Non Dependant	60
39	Working Age-Passported-Other	273
41	Working Age-Non-Passported-War Pensioners	2
43	Working Age-Non-Passported-Severe Disability	33
45	Working Age-Non-Passported-Enhanced Disability	53
47	Working Age-Non-Passported-Disability	21
49	Working Age-Non-Passported-Carer	23
51	Working Age-Non-Passported-Disabled Child Premium	4
53	Working Age-Non-Passported-Lone Parent Child Under 5	37
55	Working Age-Non-Passported-Child Under 5	44
57	Working Age-Non-Passported-Family Premium - 5 and Above	1
59	Working Age-Non-Passported-Family Premium - 4 Child	4
61	Working Age-Non-Passported-Family Premium - 3 Child	19
63	Working Age-Non-Passported-Family Premium - 2 Child	45
65	Working Age-Non-Passported-Family Premium - 1 Child	55
67	Working Age-Non-Passported-Family Premium	12
69	Working Age-Non-Passported-Working	97
71	Working Age-Non-Passported-Non Dependant	16
73	Working Age-Non-Passported-Other	34

Maldon District Council Equality Analysis

Please complete the questions below as fully as possible - the boxes will expand to accommodate your text. Please include the document version in the footer below.

1.3 Have users been consulted with? (Have you carried out consultation with users or stakeholders while drawing up the proposal / policy / service? For example, have you carried out a formal consultation, discussed the issue with a Friends/User Group or consulted with stakeholders? If so, outline the results and how it has informed your plans. It's also important to show whether the target audience was reached during the consultation.)

A six-week public consultation was carried out in September/October 2017. The consultation was publicised via a press release, the Council's website, regular Social Media updates, outgoing mail to benefit and Council Tax residents and email alerts. A wide range of key partners and stakeholders were also directly advised and actively encouraged to provide their views i.e. advice and support agencies, housing providers.

The consultation results will be fed in to this process and are included here.



Survey Results -
October 2017.pdf

1.4 If the analysis is regarding an existing Service, what are users' views of that Service? (Base your view on evidence such as satisfaction surveys, levels of compliments and levels of complaints).

The Revenues and Benefits team is a high performing team that regularly meets locally set performance targets. For the current financial year (2017-18) the team is on track to meet the targets for processing new claims and changes in circumstances.

During the financial year 2016-17 there were 10 complaints relating to the Revenues and Benefits service (a decrease from 12 complaints from the previous year).

However, in comparison during the same period the team processed in excess of 22,000 items of work. There were also five compliments.

Maldon District Council Equality Analysis

Please complete the questions below as fully as possible - the boxes will expand to accommodate your text. Please include the document version in the footer below.

2. Equality Aims – consider how the proposal / policy / service meets the three Equality Aims listed in the Equality Act.

Aim	How does the proposal / policy / service meet the equality aim?	Action or addition needed in order that the proposal / policy / service meets the aim?
<p>2.1 To eliminate unlawful discrimination, harassment and victimisation</p>	<ul style="list-style-type: none"> Higher Rate Disability benefits will continue to be disregarded thereby protecting those with specific long term conditions who fall within this group. Without such action to protect this group the policy could potentially be discriminatory. There is also an Exceptional Hardship Scheme which can assist customers with specific circumstances. 	<p>None required</p>
<p>2.2 To advance equality of opportunity between people who share a protected characteristic and those who do not</p>	<ul style="list-style-type: none"> Older people are protected in the policy, which follows specific Government Regulations. Parents who receive a child benefit will continue to have this disregarded as part of the CTS calculation, which is consistent with the Council’s duty to safeguard and promote the welfare of children. Higher rate Disability Benefits will continue to be disregarded thereby protecting those with specific long term conditions who fall within this group. In 2014 it was also agreed that Lone Parents receive a disregard of £15 per week from Child Maintenance payments A hardship fund exists to ensure provision for those residents who have exceptional circumstances. 	

Maldon District Council Equality Analysis

Please complete the questions below as fully as possible - the boxes will expand to accommodate your text. Please include the document version in the footer below.

<p>2.3 To foster good relations between those who share a protected characteristic and those who do not</p>	<ul style="list-style-type: none"> The scheme remains means tested so the scope for discrimination is limited. All working age customers 	
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3. Equality Impacts – examine how the proposal / policy / service impacts on the community. Base the analysis on evidence. Attach additional documents if necessary.

Impacts	Positive impact (X)	Could adversely impact (X)	No impact (X)	How different groups could be affected: Summary of impacts	Actions to reduce negative or increase positive impact
<p>3.1 Age (What will the impact be on different age groups such as younger or older people?)</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Older People (60+) are specifically protected under Government Regulations</p>	
<p>3.1 Age (What will the impact be on different age groups such as younger or older people?)</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Due to the protection afforded to those of pensionable age, customers of working age are impacted directly by any changes to the scheme.</p> <p>People over 18 of working age will potentially be required to pay more.</p>	<p>Parents will continue to have Child Benefit disregarded in the CTS calculation which is consistent with the Council's duty to safeguard and promote the welfare of children.</p> <p>The Council will continue to provide information and advice on income maximisation.</p>
<p>3.2 Disability (Consider all disabilities such as hearing loss, dyslexia etc as well as access issues for wheelchair users where appropriate)</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>People with disabilities who are below pensionable age may need to pay more.</p>	<p>Higher Rate Disability Benefits continue to be disregarded (i.e. Disability Living Allowance) thereby protecting those with specific long term conditions.</p> <p>A hardship fund exists to ensure provision for those residents who have exceptional circumstances.</p>

Maldon District Council Equality Analysis

Please complete the questions below as fully as possible - the boxes will expand to accommodate your text. Please include the document version in the footer below.

Impacts	Positive impact (X)	Could adversely impact (X)	No impact (X)	How different groups could be affected: Summary of impacts	Actions to reduce negative or increase positive impact
<p>3.3 Pregnancy and Maternity (Think about pregnancy, new and breastfeeding Mums)</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Removal of the family premium (currently an allowance of £17.45 per week) in line with the Government’s changes for Housing Benefit will only affect those families who are working age and not claiming “passport” benefits such as Universal Credit and Income Support.</p> <p>New working age residents may see a reduction in support and some households with children will pay more.</p> <p>With regard to limiting the number of dependent children in the CTS calculation, households who have a third or subsequent child after 1 April 2017 may receive less support than claimants who have more children born before that date. This amounts to an additional premium of £66.90 per week (for a child of any age).</p> <p>This would bring the scheme in line with the Government’s changes for Housing Benefit.</p>	
<p>3.4 Sex (is the service used more by one gender and are the sexes given equal opportunity?)</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>CTS is means tested and therefore gender is not a factor in the calculation of support.</p>	

Maldon District Council Equality Analysis

Please complete the questions below as fully as possible - the boxes will expand to accommodate your text. Please include the document version in the footer below.

Impacts	Positive impact (X)	Could adversely impact (X)	No impact (X)	How different groups could be affected: Summary of impacts	Actions to reduce negative or increase positive impact
3.5 Gender Reassignment (Is there an impact on people who are going through or who have completed Gender Reassignment?)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CTS is means tested and therefore gender is not a factor in the calculation of support	
3.6 Religion or belief (Includes not having a religion or belief)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CTS is means tested and therefore religion is not a factor in the calculation of support	
3.7 Sexual Orientation (What is the impact on heterosexual, lesbian, gay or bisexual people?)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CTS is means tested and therefore this characteristic is not a factor in the calculation of support	
3.8 Race (Includes ethnic or national origins including Gypsies and Travellers)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CTS is means tested and therefore this characteristic is not a factor in the calculation of support.	
3.9 Socio-Economic Group (Will people of any particular socio-economic group be particularly affected?)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Council Tax Support is designed to help people who have restricted incomes. Any additional changes to the proposed scheme will therefore have an impact on those who claim support – particularly those of working age.	

Maldon District Council Equality Analysis

Please complete the questions below as fully as possible - the boxes will expand to accommodate your text. Please include the document version in the footer below.

4. Is there a Cumulative Impact? (If the same group is the subject of many changes or reductions the overall impact is much greater. Consider what else is happening within Maldon District Council that may have an impact and also what we know is happening elsewhere (such as Essex County Council). See Guidance for further advice.)

The requirement to introduce a local Council Tax scheme and to make savings has been introduced via Government policy so each year our scheme must be reviewed and a proposal must be pursued following a public consultation.

Whilst the authority may choose to allocate funding to ensure full protection for all customers, to date this has not been considered to be financially sustainable. Furthermore, the results from public consultations would appear to agree that customers claiming support should pay towards their Council Tax.

5. Outcome

5.1 Consider all the analysis and evidence above and indicate

(1) No change needed (2) Adjust (3) Adverse impact but continue (4) Stop, remove the proposal / policy / service

5.2 Adjustments

If option (2) above is selected please detail what adjustments are needed, who is responsible and how that will be reviewed. Also outline how that will be agreed (i.e. Committee, CMT).

5.3 Decision Making (How will this equality analysis be taken into account during the decision making process? For example will it be included with a report to Committee/CMT? Will it be considered at department level or by a Head of Service? How will community/stakeholders views be taken into account?)

The Equality analysis will be included within the decision making process which includes consideration at

- Finance and Corporate Services Committee on 28 November 2017
- Full Council on 21 December 2017

Maldon District Council Equality Analysis

Please complete the questions below as fully as possible - the boxes will expand to accommodate your text. Please include the document version in the footer below.

<p>6.0 Next Steps</p>
<p>6.1 If there was a lack of evidence or data held on which to base this assessment, how will that gap be addressed for the future?</p> <p>Not applicable</p>
<p>6.2 Summary of actions highlighted within this analysis (Include how this will be picked up within service/work plans)</p>
<p>6.3 Arrangements for future monitoring of equality impact of this proposal / policy / service</p> <p>To be reviewed at least annually, or where relevant changes occur which may have an impact.</p>
<p>6.4 Approved by (Manager or Head of Service signature and date)</p> <p>Sue Green (Group Manager: Customers)</p>

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Document Control Sheet

Document title	Financial Regulations and Financial Procedures
Summary of purpose	To provide the framework for managing the Council's financial affairs.
Prepared by	Director of Resources and Finance Manager
Status	Draft (awaiting approval)
Version number	1 (October 2017)
Approved by	
Approval date	
Date of implementation	
Review frequency	
Next review date	
Circulation	
Published on the Council's website	

Validity Statement

This document is due for review by the date shown above, after which it may become invalid. Users of the strategy or policy should ensure that they are consulting the currently valid version of the document.



MALDON DISTRICT
COUNCIL



MALDON DISTRICT COUNCIL

Financial Regulations and Financial Procedures

Updated October 2017

Changes log

Committee version	Change
September 2017	Replaced Standing Committee with Programme Committee throughout document.
September 2017	Section 2 - 3.2 and Appendix A – 2.1.1.1 amended Programme Committees to Finance & Corporate Services Committee.
September 2017	Appendices A- I Formatting of Appendix numbering to aid clarity
September 2017	Appendix A – 5.3.1 Amend reference to presents a true and fair view of the statements as opposed to presents fairly
September 2017	Appendix B – 2.6.1 Established that Service budget managers are only attributed to directly controllable budget codes.
September 2017	Appendix B – 2.6.5 Include DoR responsibility to approve fees and charges where budgeted income is less than £2,000. (Already in the yearbook, but including here to)
September 2017	Appendix D – 3.5.11 removed the “in any case, not later than 15 April”
September 2017	Appendix F – F1.4, removed communication via Members bulletin and inserted via email.
September 2017	Appendix F – F.1.9 Inventories – Reduced the inventory limit to £500 to encompass lower cost desirable items and updated to reflect IT record all assets.
September 2017	Appendix G – G.5. Expanded DoR authorisation for opening banks to show investment/financial instruments
September 2017	Appendix G – G.7 amended so that the DoR “ensures” the safe keeping of cheques
September 2017	Appendix H, removed electronic from orders over £50,000.
September 2017	Appendix I - Expansion on delegation – incl a new appendices for one off delegations
October 2017	Appendix A – 2.3.1, 2.4.1, Appendix F – 1.4 a + b, adjusting wording to be consistent in application of Directors virement budgetary control over Directorate as a whole.
October 2017	Appendix E – Appendix reviewed following last F&CS, paragraph 1.4.5 added to incorporate terms and conditions of agreements.
October 2017	Appendix F- 1.2 Inclusion of Salaries as a separate directorate for virement purposes.
October 2017	Appendix F – Insert 1.4 to add that use of reserves is to be treated as a virement.

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1. Status of Financial Regulations

- 1.1. Financial regulations provide the framework for managing the Council's financial affairs. They apply to every member and officer of the Council and anyone acting on its behalf.
- 1.2. The regulations identify the financial responsibilities of the Council, the Committees, the Chief Executive, the Director of Resources, the Monitoring Officer, and other Directors. Directors should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, references to the Director in the regulations should be read as referring to them. Actions may also be delegated, and again delegation should be documented, however the responsibility to ensure that these actions are happening remains with the person specified in these regulations. (Appendix I)
- 1.3. All Council Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 1.4. The Director of Resources is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the Council for approval. The Director of Resources is also responsible for reporting, where appropriate, breaches of the financial regulations to the Finance & Corporate Services Committee. Any non-compliance with the Regulations must be reported to the Director of Resources. Anyone wishing to act outside the provisions of these regulations, in a specific instance, must seek the prior written approval of the Director of Resources.
- 1.5. The Council's detailed financial procedures, setting out how the regulations will be implemented, are contained in the appendices to the financial regulations.
- 1.6. The Director of Resources is responsible for ensuring that all staff are aware of the existence and content of the Council's financial regulations and other internal regulatory documents and that they comply with them.
- 1.7. The Director of Resources is responsible for issuing advice and guidance to underpin the financial regulations that Members, Officers and others acting on behalf of the Council are required to follow. Notes and guidance may expand upon, but not contradict the Regulations. Any consultation required under these Regulations must allow sufficient time for a proper consideration of any issues.
- 1.8. All financial and accounting procedures must be carried out in accordance with the Regulations.

2. FINANCIAL REGULATIONS

a) Financial Management

1. INTRODUCTION

- 1.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

2. THE COUNCIL

- 2.1 The Council is responsible for adopting the corporate governance arrangements (Standing orders and Terms of Reference), for approving the annual budget and the policy framework within which the Committees operate. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in its corporate governance arrangements. The Council is also responsible for monitoring compliance with the agreed policy and related Committee decisions.
- 2.2 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its Committees.

3. THE COMMITTEES

- 3.1 The Finance & Corporate Services Committee is responsible for proposing the annual budget to the Council, and for discharging its own functions in accordance with that budget and framework.
- 3.2 Once approved, the Finance & Corporate Services committee is responsible for the administration of the budget for the services set out in its Terms of Reference.
- 3.3 Committee decisions can be delegated to an officer or a sub-committee.
- 3.4 The Committees are responsible for establishing protocols to ensure that decisions take account of legal and financial liabilities and risk management issues that may arise from the decision.
- 3.5 The Overview and Scrutiny Committee along with its major role in reviewing Best Value, has power to scrutinise decisions made, or action taken, in respect of any of the functions of the Council which have financial implications. It also has powers to make recommendations on future financial policy options and for reviewing the general financial policy and service delivery of the Council.
- 3.6 The Standards Committee is established by the Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' code of conduct, and for monitoring the operation of the code.

4. THE STATUTORY OFFICERS

4.1 Head of Paid Service

- 4.1.1 The Chief Executive is the Head of Paid Service and is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide information for the Council, the Programme committees and other Committees. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Chief Executive is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Council's decisions (see below).
- 4.1.2 The Head of Paid Service is responsible for keeping the Council's corporate governance arrangements up to date.

4.2 Monitoring Officer

- 4.2.1 The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council and/or to the Committees, and for ensuring that procedures for recording and reporting key decisions, as defined in the Constitution, are operating effectively.
- 4.2.2 The Monitoring Officer must ensure that Committees' decisions and the reasons for them are made public. He/she must also ensure that Council Members are aware of decisions made by Committees and of those made by officers who have delegated responsibility.
- 4.2.3 The Monitoring Officer is responsible for advising all Members and officers about who has authority to take a particular decision.
- 4.2.4 The Monitoring Officer is responsible for advising the Committees or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- 4.2.5 The Monitoring Officer (together with the Chief Executive) is responsible for advising the Committees or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- a) initiating a new policy;
 - b) committing expenditure in future years to above the current budget level;
 - c) incurring expenditure where no estimate or an inadequate estimate exists thereby giving rise to the necessity for [supplementary estimates](#) or [virements](#) above approved limits;
 - d) causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

4.3 Section 151 Officer (Chief Finance Officer)

4.3.1 The Director of Resources is the Chief Finance Officer and has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- a) Section 151 of the Local Government Act 1972;
- b) The Local Government Finance Act 1988;
- c) The Local Government and Housing Act 1989;
- d) The Accounts and Audit Regulations 2015;
- e) The Localism Act 2011.

4.3.2 The Section 151 Officer (Chief Finance Officer) is responsible for:

- a) the proper administration of the Council's financial affairs;
- b) setting and monitoring compliance with financial management standards;
- c) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- d) providing financial information;
- e) preparing the [revenue budget](#) and [capital programme](#);

Operational responsibility for these matters is assigned to the Director of Resources or Finance Manager (as Deputy S151 Officer for the authority).

4.3.3 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer (Section 151 Officer) to report to the Council, Committees and external auditor if the Council, Committees or one of its officers or members:

- a) has made, or is about to make, a decision which involves incurring unlawful expenditure;
- b) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council;
- c) is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- d) the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he/she be unable to perform the duties under section 114 personally;
- e) the Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under section 114.

5. DIRECTORS

5.1 Directors are responsible for ensuring that Committees are advised of the financial implications of all proposals and that the financial implications have been agreed by the Director of Resources;

5.2 The Directors and the Head of Paid Service are responsible for signing contracts on behalf of the Council.

- 5.3 It is the responsibility of Directors and Committees to consult with the Director of Resources and Chief Executive and seek approval on any matter liable to affect the Council's finances, before any commitments are incurred.

6. OTHER FINANCIAL ACCOUNTABILITIES

6.1 Virement

- 6.1.1 The Council is responsible for agreeing procedures for revenue and capital virements of expenditure or income between budget headings.

- 6.1.2 Directors must consult the Director of Resources on all virements, (see [Appendix F](#))

6.2 Treatment of year-end balances

- 6.2.1 The Director of Resources is responsible for agreeing procedures for carrying forward under-spending on budget headings.

6.3 Accounting policies

- 6.3.1 The Director of Resources is responsible for selecting accounting policies and ensuring that they are applied consistently.

6.4 Accounting records and returns

- 6.4.1 The Director of Resources is responsible for determining the accounting procedures and records for the Council.

6.5 The Annual Statement of Accounts

- 6.5.1 The Director of Resources is responsible for ensuring that the annual Statement of Accounts is prepared in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Local Authority Accounting in the United Kingdom and that the annual accounts are published by the deadline set out in the Accounts and Audit Regulations each year. The Audit Committee is responsible for approving the annual Statement of Accounts.

b) Financial Planning

1. INTRODUCTION

1.1 The Council is responsible for agreeing the Council's policy framework, in particular the Corporate Plan. It is also responsible for agreeing the budget, the main framework of which will be proposed by the Finance & Corporate Services Committee. In terms of financial planning, the key elements are:

- a) the revenue budget;
- b) the medium term financial strategy (MTFS);
- c) the capital programme.

2. POLICY FRAMEWORK

2.1 The policy framework comprises a number of statutory plans and strategies, which are set out in the Councils corporate governance arrangements.

2.2 The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. The Monitoring Officer or the Chief Executive, as appropriate, should refer decisions to the Council.

2.3 The Programme committees are responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

2.4 Preparation of the Corporate Plan

2.4.1 The Chief Executive is responsible for proposing the Corporate Plan to the Council for approval.

3. BUDGETING

3.1 Budget format

3.1.1 The general format of the budget will be approved by the Finance & Corporate Services Committee and the Council on the advice of the Director of Resources. The draft budget should include current approvals updated for inflation and volume changes, proposals for growth and savings, together with the proposed taxation level.

3.2 Budget preparation

3.2.1 The Director of Resources is responsible for ensuring that a revenue budget is prepared on an annual basis and a MTFS at least on a three-yearly basis for consideration by the Finance & Corporate Services Committee, before submission to the Council. The Council may amend the budget before approving it.

3.3 Budget monitoring and control

3.3.1 The Director of Resources is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He/she must monitor and control expenditure against budget allocations and report to the Finance & Corporate Services Committee on the overall position on a quarterly basis.

3.3.2 It is the responsibility of Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Director of Resources. They should also take any action necessary to avoid exceeding their budget allocation and alert the Director of Resources to any problems.

3.4 Resource allocation

3.4.1 The Director of Resources is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's strategic and financial planning process.

3.5 Preparation of the Capital Strategy

3.5.1 The Director of Resources is responsible for ensuring that the Capital Strategy and Capital Programme are prepared on an annual basis for consideration by the Finance & Corporate Services Committee before submission to the Council.

3.6 Guidelines

3.6.1 Guidelines on budget policies are issued to Directors by the Director of Resources following approval of the Finance & Corporate Services Committee. The guidelines will take account of:

- a) legal requirements;
- b) medium-term financial strategy;
- c) the Corporate Plan;
- d) available resources;
- e) spending pressures;
- f) other relevant guidelines issued by government or external audit;
- g) other internal policy documents;
- h) cross-cutting issues (where relevant);
- i) external partnerships.

4. MAINTENANCE OF RESERVES

4.1 It is the responsibility of the Director of Resources to advise the Finance & Corporate Services Committee on prudent levels of reserves for the Council.

c) Risk Management and Control of Resources

1. INTRODUCTION

- 1.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

2. RISK MANAGEMENT

- 2.1 The Finance & Corporate Services Committees is responsible for approving the Council's Risk Management Policy. The Audit Committee is responsible for reviewing the effectiveness of risk management. The Finance & Corporate Services Committee is responsible for ensuring that proper insurance exists where appropriate.
- 2.2 The Director of Resources is responsible for preparing the Council's Risk Management Policy and for promoting it throughout the Council and is responsible for advising the Committees on proper insurance cover where appropriate.

3. INTERNAL CONTROL

- 3.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 3.2 The Director of Resources is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, effectively and in accordance with the statutory and other authorities that govern their use.
- 3.3 It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

4. AUDIT REQUIREMENTS

- 4.1 The Accounts and Audit Regulations require every local Council to maintain an adequate and effective internal audit.
- 4.2 The Secretary of State for Communities and Local Government, via the Local Government Association has delegated the appointment of external auditors to each local authority to a body called Public Sector Audit Appointments Ltd (PSAA). The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by the Local Audit and Accountability Act 2014.
- 4.3 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, which have statutory rights of access.

5. PREVENTING FRAUD AND CORRUPTION

- 5.1 The Director of Planning and Regulatory Services and Director of Resources are responsible for the development and maintenance of an Anti-Fraud and Anti-Corruption Policy respectively.

6. ASSETS

- 6.1 Directors should ensure that records of the Council’s assets in excess of the limit set out in section 1.7 of **Appendix F** are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place. The Director of Resources should ensure that all assets above the specified value are properly recorded in the asset register.

7. TREASURY MANAGEMENT

- 7.1 The Council has adopted CIPFA’s Code of Practice for Treasury Management in Local Authorities.
- 7.2 The Finance & Corporate Services Committee is responsible for approving the treasury management policy and Treasury Management Practices (TMP’s) setting out the matters detailed in CIPFA’s Code of Practice for Treasury Management in Local Authorities. The Director of Resources has delegated responsibility for implementing and monitoring the TMP’s.
- 7.3 All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Director of Resources.
- 7.4 Subject to the Council setting the overall borrowing limits in accordance with the Prudential Code, the day to day decisions on borrowing, investment or financing shall be delegated to the Director of Resources, who is required to act in accordance with CIPFA’s Code of Practice for Treasury Management in Local Authorities.

8. STAFFING

- 8.1 The Chief Executive is responsible for providing overall management to staff. He/she is also responsible for ensuring that there is proper use of evaluation or other agreed systems for determining the remuneration of a job.
- 8.2 Directors, in consultation with the Director of Resources, are responsible for controlling total staff numbers by:
- a) advising the Council on the budget necessary in any given year to cover estimated staffing levels;
 - b) adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs;
 - c) the proper use of appointment procedures.

d) Systems and Procedures**1. INTRODUCTION**

1.1 Sound systems and procedures are essential to an effective framework of accountability and control.

2. GENERAL

2.1 The Director of Resources is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. The Director of Resources must determine any changes proposed by Directors to the existing financial systems or the establishment of new systems. However, Directors are responsible for the proper operation of financial processes in their own services.

2.2 Any changes to agreed procedures by Directors to meet their own specific service needs should be agreed with the Director of Resources.

2.3 The Director of Resources should ensure that all staff receive relevant financial training.

2.4 Directors must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation. Directors must ensure that staff are aware of their responsibilities under freedom of information legislation.

3. INCOME AND EXPENDITURE

3.1 It is the responsibility of Directors to ensure that a proper scheme of delegation has been established within their area and that it is operating effectively. The scheme of delegation should identify in writing staff authorised to act on the Directors' behalf, or on behalf of the Council, in respect of payments, income collection and placing orders, together with the limits of their authority. The Finance & Corporate Services Committee is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

4. PAYMENTS TO EMPLOYEES AND MEMBERS

4.1 The Director of Resources is responsible for all payments of salaries and allowances to all staff, including payments for overtime, and for payment of allowances to Members.

5. TAXATION

5.1 The Director of Resources is responsible for advising Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.

5.2 The Director of Resources is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

6. TRADING ACCOUNTS

6.1 It is the responsibility of the Director of Resources to advise on the establishment and operation of trading accounts.

e) External Arrangements**1. INTRODUCTION**

- 1.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social and environmental well-being of its area.

2. PARTNERSHIPS

- 2.1 The Programme committees are responsible for approving delegations, including frameworks for partnerships. The Programme committees are the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 2.2 The Programme committees can delegate functions, including those relating to partnerships, to officers. These are set out in the scheme of delegation that forms part of the Council's corporate governance arrangements. Where functions are delegated, the Programme committees remain accountable for them to the Council.
- 2.3 The Director of Resources is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- 2.4 The Director of Resources, in consultation with the Council's designated legal advisor, must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are robust and comply with best practices. He/she must also consider the overall corporate governance arrangements and in consultation with the designated legal advisor, legal issues when arranging contracts with external bodies. He/she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 2.5 Programme committees are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

3. EXTERNAL FUNDING

- 3.1 The Director of Resources is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

A. FINANCIAL MANAGEMENT PROCEDURES

A.1. FINANCIAL MANAGEMENT STANDARDS

1.1 Why is this important?

1.1.1 All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

A.1.2 Key controls

1.2.1 The key controls and control objectives for financial management standards are

- (a) their promotion throughout the Council;
- (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Finance & Corporate Services and/or Overview & Scrutiny Committees.

A.1.3 Responsibilities of the Director of Resources

1.3.1 To ensure the proper administration of the financial affairs of the Council.

1.3.2 To set the financial management standards and to monitor compliance with them.

1.3.3 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council.

1.3.4 To advise on the key strategic controls necessary to secure sound financial management.

1.3.5 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

A.1.4 Responsibilities of Directors

1.4.1 To promote the financial management standards set by the Director of Resources in their service and to monitor adherence to the standards and practices.

1.4.2 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

A.2. MANAGING EXPENDITURE

2.1 Scheme of Virement

2.1.1 Why is this important?

2.1.1.1 The scheme of virement is intended to enable the Finance & Corporate Services committee, Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Council, and therefore to optimise the use of resources.

A.2.2 Key controls

2.2.1 Key controls for the scheme of virement are:

- (a) it is administered by the Director of Resources within guidelines set by the Council. Any variation from this scheme requires the approval of the Council;
- (b) the overall budget is proposed by the Finance & Corporate Services Committee and approved by the Council. Directors and budget holders are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement (i.e. switching resources between approved budget headings of expenditure or income). For the purposes of this scheme, a budget heading is considered to be a line in the Budget Summary of the Budget Book;
- (c) virement does not create additional overall budget liability. Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors must plan to fund such commitments from within their own budgets.

A.2.3 Responsibilities of the Director of Resources

2.3.1 To prepare jointly with the Directors, a report to the Finance & Corporate Services Committee where revenue and capital virements, between different directorates, in excess of specified financial limits, are proposed (see **Appendix F**).

A.2.4 Responsibilities of Directors

2.4.1 A Director, in consultation with the Director of Resources may exercise virement within the same directorate under his/her control for any amount. Virements between different directorates must be reported to the Finance & Corporate Services Committee. The authorisation limits are set out in **Appendix F**.

2.4.2 Amounts that require the approval of the Finance & Corporate Services Committee must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial years.

2.4.3 Virement that is likely to impact on the level of service activity of another Director should be implemented only after agreement with the relevant Director.

2.4.4 No virement relating to a specific financial year should be made after 31 March in that year.

2.4.5 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:

- a) the amount is used in accordance with the purposes for which it has been established;
- b) the Finance & Corporate Services Committee has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Finance & Corporate Services Committee.

2.4.6 Virements are not permitted in relation to asset charges or other budget headings which are outside the control of the Directors or where a proposal would adversely affect long term revenue commitments.

A.3. ACCOUNTING POLICIES

A.3.1 Why is this important?

3.1.1 The Director of Resources is responsible for the preparation of the Council's Statement of Accounts, in accordance with proper practices as set out in the format required by the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom for each financial year ending 31 March.

A.3.2 Key controls

3.2.1 The key controls for accounting policies are:

- a) systems of internal control are in place which ensure that financial transactions are lawful;
- b) suitable accounting policies are selected and applied consistently;
- c) proper accounting records are maintained;
- d) financial statements are prepared which present fairly the financial position of the Council and its expenditure and income.

A.3.3 Responsibilities of the Director of Resources

3.3.1 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared at 31 March each year, and covers such items as:

- a) income and expenditure;
- b) fixed assets;
- c) treatment of leasing;
- d) depreciation;
- e) charges to revenue;
- f) capital receipts;
- g) debtors and creditors;
- h) support services;
- i) pensions;
- j) government grants;
- k) investments;
- l) reserves.
- m) stocks

A.3.4 Responsibilities of Directors

3.4.1 To adhere to the accounting policies and guidelines approved by the Director of Resources.

A.4. ACCOUNTING RECORDS AND RETURNS

A.4.1 Why is this important?

4.1.1 Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

A.4.2 Key controls

4.2.1 The key controls for accounting records and returns are:

- a) all Committees, finance staff and budget managers operate within the required accounting standards and timetables;
- b) all the Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
- c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
- d) reconciliation procedures are carried out to ensure transactions are correctly recorded;
- e) prime documents are retained in accordance with legislative and other requirements.

A.4.3 Responsibilities of the Director of Resources

4.3.1 To determine the accounting procedures and records for the Council. Where these are maintained outside his/her department, the Director of Resources should consult the Director concerned.

4.3.2 To arrange for the compilation of all accounts and accounting records under his/her direction.

4.3.3 To comply with the following principles when allocating accounting duties:

- a) separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them;
- b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

4.3.4 To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2015.

4.3.5 To ensure that all claims for funds including grants are made by the due date.

4.3.6 To prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable and with the requirement for the Audit Committee to approve the Statement of Accounts.

4.3.7 To administer arrangements for under-spending to be carried forward to the following financial year.

4.3.8 To ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention guidelines.

A.4.4 Responsibilities of Directors

4.4.1 To consult and obtain the approval of the Director of Resources before making any changes to accounting records and procedures.

4.4.2 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

4.4.3 To supply information required to enable the Statement of Accounts to be completed in accordance with guidelines issued by the Director of Resources.

A.5. THE ANNUAL STATEMENT OF ACCOUNTS

A.5.1 Why is this important?

5.1.1 The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Audit Committee is responsible for approving the statutory annual Statement of Accounts.

A.5.2 Key controls

5.2.1 The key controls for the annual Statement of Accounts are:

- a) the Council is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this Council, that officer is the Director of Resources (Section 151 Officer);
- b) the Council's Statement of Accounts must be prepared in accordance with proper practices as set out in the latest CIPFA Code of Practice on Local Authority Accounting in the United Kingdom.

A.5.3 Responsibilities of the Director of Resources

5.3.1 To sign and date the Statement of Accounts, stating that it presents a true and fair view of the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March.

5.3.2 To select suitable accounting policies and to apply them consistently.

5.3.3 To make judgements and estimates that are reasonable and prudent.

5.3.4 To comply with the latest accounting Code of Practice.

5.3.5 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

A.5.4 Responsibilities of Directors

5.4.1 To comply with accounting guidance provided by the Director of Resources and to supply him/her with information when required.

B. FINANCIAL PLANNING

B.1. PERFORMANCE PLANS

B.1.1 Why is this important?

1.1.1 The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.

B.1.2 Key controls

1.2.1 The key controls for performance plans are:

- (a) to meet the timetables set;
- (b) to ensure that all performance information is accurate, complete and up to date;
- (c) to provide improvement targets which are meaningful, realistic and challenging.

B.1.3 Responsibilities of the Director of Resources

1.3.1 To contribute to the development of corporate and service targets and objectives and performance information.

1.3.2 To ensure that corporate systems are in place to measure activity and collect accurate information for use as performance indicators.

1.3.3 To ensure that performance information is collected and monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

B.1.4 Responsibilities of Directors

1.4.1 To contribute to the development of performance plans in line with statutory requirements.

1.4.2 To contribute to the development of corporate and service targets and objectives and performance information.

1.4.3 To ensure that systems are in place within their service area to measure activity and collect accurate information for use as performance indicators.

1.4.4 To ensure that performance information is collected and monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

B.2. BUDGETING

B.2.1 Format of the budget

2.1.1 Why is this important?

2.1.1.1 The structure of the budget determines the level of detail to which financial control and management will be exercised. The structure shapes how the rules around virement operate, the operation of financial limits and sets the level at which funds may be reallocated within budgets.

B.2.2 Key controls

2.2.1 The key controls for the budget structure are:

- a) the structure complies with all legal requirements;
- b) the structure reflects the accountabilities of service delivery.

B.2.3 Responsibilities of Directors

2.3.1 To comply with accounting guidance provided by the Director of Resources.

B.2.4 Revenue budget preparation, monitoring and control

2.4.1 Why is this important?

2.4.1.1 Budget management ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account, managers responsible for defined elements of the budget.

2.4.1.2 By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual financial limit, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the budget allocated to it.

2.4.1.3 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service or policy area. However, budgetary control may take place at a more detailed level if this is required by the Directors scheme of delegation or by the Council.

B.2.5 Key controls

2.5.1 The key controls for managing and controlling the revenue budget are:

- a) budget managers should be responsible only for income and expenditure that they can influence;
- b) there is only one nominated budget manager for each budget area;
- c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
- d) budget managers follow an approved certification process for all expenditure;
- e) income and expenditure are properly recorded and accounted for;
- f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget;
- g) Managers should supervise the financial management of those reporting to them.

B.2.6 Responsibilities of the Director of Resources

- 2.6.1 To establish an appropriate framework of budgetary management and control that ensures that:
- a) budget management is exercised within annual financial limits unless the Council agrees otherwise;
 - b) each Manager has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
 - c) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations;
 - d) each directly controllable cost centre has a single named manager, determined by the relevant Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making process that commits expenditure;
 - e) significant variances from approved budgets are investigated and reported by budget managers regularly.
- 2.6.2 To administer the Council's scheme of virement.
- 2.6.3 To submit reports to the Finance & Corporate Services Committee and to the Council, in consultation with the relevant Director, where a Director is unable to balance expenditure and resources within existing approved budgets under his/her control.
- 2.6.4 To prepare and submit reports on the Council's projected income and expenditure compared with the budget on a quarterly basis.
- 2.6.5 To approve fees and charges where the budgeted income is less than or equal to £2,000.

B.2.7 Responsibilities of Directors

- 2.7.1 To maintain budgetary control within their services, in adherence to the principles in 2.6.1, and to ensure that all income and expenditure is properly recorded and accounted for.
- 2.7.2 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- 2.7.3 To ensure that spending remains within the service's overall financial limit, and that individual budget headings are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 2.7.4 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and that it is operating effectively.
- 2.7.5 To ensure prior approval by the Council or Programme committees (as appropriate) for new proposals, of whatever amount, that:
- a) create financial commitments in the current or future years;
 - b) change existing policies, initiate new policies or cease existing policies;

c) materially extend or reduce the Council's services.

2.7.6 To ensure compliance with the scheme of virement.

2.7.7 To agree with the relevant Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or another Director's level of service activity.

B.2.8 Budgets and the Medium-Term Financial Strategy (MTFS)

2.8.1 Why is this important?

2.8.1.1 The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.

2.8.1.2 A report on new proposals should explain the full financial implications, following consultation with the Director of Resources. Unless the Council or Finance & Corporate Services Committee has agreed otherwise, Directors must plan to contain the financial implications of such proposals within the relevant financial limit.

2.8.1.3 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the business plans and priorities of the Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a Council to budget for a deficit.

2.8.1.4 The annual strategic and financial planning process involves a cycle in which Directors develop their own plans for submission to the relevant Committee. As each year passes, another future year will be added to the MTFS. This ensures that the Council is always preparing for events in advance.

B.2.9 Key controls

2.9.1 The key controls for budgets and the MTFS are:

- a) specific budget approval for all expenditure;
- b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Council for their budgets and the level of service to be delivered;
- c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

B.2.10 Responsibilities of the Director of Resources

2.10.1 To prepare and submit reports on budget prospects to the Finance & Corporate Services Committee including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.

2.10.2 To determine the detailed form of revenue estimates and the methods for their preparation.

2.10.3 To advise on the medium-term implications of spending decisions.

- 2.10.4 To encourage the best use of resources and value for money by working with Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 2.10.5 To advise the Council on proposals in accordance with his/her responsibilities under section 151 of the Local Government Act 1972.

B.2.11 Responsibilities of Directors

- 2.11.1 To prepare estimates of income and expenditure, in consultation with the Director of Resources.
- 2.11.2 To prepare budgets that are consistent with any relevant financial limits, with the Council's annual budget cycle and with guidelines issued by the Director of Resources.
- 2.11.3 To integrate financial and budget plans into business planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.11.4 In consultation with the Director of Resources and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Finance & Corporate Services Committee.
- 2.11.5 When drawing up draft budget requirements, to have regard to:
- a) spending patterns and pressures revealed through the budget monitoring process;
 - b) legal requirements;
 - c) requirements as defined by the Council in the Strategic and Financial Policy Process;
 - d) initiatives already under way and any new service requirements that are likely to require funding within the financial year in question.

B.2.12 Resource allocation

2.12.1 Why is this important?

- 2.12.1.1 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised, taking account of the Council's legal responsibilities and that resources are allocated to meet the urgent priorities. Resources may include staff, money, equipment, goods and materials.

B.2.13 Key controls

- 2.13.1 The key controls for resource allocation are:
- a) resources are acquired in accordance with the law and allocated using an approved authorisation process;
 - b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
 - c) resources are securely held for use when required;

- d) resources are used in the most efficient manner.

B.2.14 Responsibilities of the Director of Resources

- 2.14.1 To coordinate the Strategic and Financial Planning process to ensure that resources are devoted to the Council's stated priorities.
- 2.14.2 To advise on methods available for the funding of expenditure plans.

B.2.15 Responsibilities of Directors

- 2.15.1 To deliver the Council's key objectives within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- 2.15.2 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

B.2.16 Capital programmes

2.16.1 Why is this important?

- 2.16.1.1 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 2.16.1.2 The Government controls the financing capacity of the Council through the CIPFA Prudential Code. This means that capital expenditure should be integrated into the Council's Treasury Management Strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

B.2.17 Key controls

- 2.17.1 The key controls for capital programmes are:
 - a) the development and implementation of asset management plans;
 - b) specific approval by the Council for the programme of capital expenditure;
 - c) a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Finance & Corporate Services Committee;
 - d) proposals for improvements and alterations to buildings must be approved by the relevant Director;
 - e) accountability for each capital project is accepted by a named manager;
 - f) monitoring of progress in conjunction with expenditure and comparison with approved budget;
 - g) capital spending plans are to be in line with the approved Capital Strategy.

B.2.18 Responsibilities of the Director of Resources

- 2.18.1 To prepare the capital programme and estimates jointly with Directors and to report them to the Finance & Corporate Services Committee for approval. The Finance & Corporate Services Committee will make recommendations on the capital programme and on any associated financing requirements to the Council.
- 2.18.2 To prepare and submit reports jointly with the officers defined as accountable for capital projects to the Finance & Corporate Services Committee on the progress of the capital programme compared with the approved estimates.
- 2.18.3 Having regard to regulations determine the definition of 'capital'.

B.2.19 Responsibilities of Directors

- 2.19.1 To comply with guidance concerning capital schemes and controls issued by the Director of Resources.
- 2.19.2 To prepare and submit quarterly reports jointly with the Director of Resources to the Finance & Corporate Services Committee on the the progress of the capital programme compared with the approved estimates.
- 2.19.3 To prepare regular reports reviewing the capital programme provisions for their services. In consultation with the Director of Resources, to obtain authorisation from the Finance & Corporate Services Committee and/or the Council for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount (see **Appendix F**).
- 2.19.4 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Director of Resources.
- 2.19.5 To ensure that adequate records are maintained for all capital contracts.
- 2.19.6 To proceed with projects only when there is adequate provision in the capital programme.
- 2.19.7 To prepare and submit reports, jointly with the Director of Resources, to the Programme committees, of any increase in contract costs in excess of the approved scheme and estimate, unless the excess can be met by virement from elsewhere within the capital programme. The authorisation limits for capital virements are set out in **Appendix F**.
- 2.19.8 To prepare and submit reports, jointly with the Director of Resources, to the Programme committees, where it appears that the final cost of a revenue or capital contract will exceed the approved contract sum by more than a specified financial limit (see **Appendix F**).
- 2.19.9 No leasing arrangements as defined by the Director of Resources shall be entered into without prior approval.

B.3. MAINTENANCE OF RESERVES

B.3.1 Why is this important?

- 3.1.1 The Council must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

B.3.2 Key controls

- 3.2.1 To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom and agreed accounting policies.
- 3.2.2 For each reserve established, the purpose, usage and basis of transactions should be clearly identified and approved by the Finance & Corporate Services Committee.

B.3.3 Responsibilities of the Director of Resources

- 3.3.1 To advise the Finance & Corporate Services Committee and/or the Council on prudent levels of reserves for the Council.

B.3.4 Responsibilities of Directors

- 3.4.1 To ensure that resources are used only for the purposes for which they were intended.

C. RISK MANAGEMENT AND CONTROL OF RESOURCES

C.1. RISK MANAGEMENT

C.1.1 Why is this important?

1.1.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

1.1.2 It is the overall responsibility of the Council to approve the Council's risk management strategy, and to promote a culture of risk management awareness throughout the Council.

C.1.2 Key controls

1.2.1 The key controls for risk management are:

- a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council;
- b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls;
- c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- d) provision is made for losses that might result from the risks that remain;
- e) procedures are in place to investigate claims within required timescales
- f) acceptable levels of risk are determined and insured against where appropriate;
- g) the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

C.1.3 Responsibilities of the Director of Resources

1.3.1 To prepare and promote the Council's Risk Management Policy.

1.3.2 To develop risk management controls in conjunction with Directors.

C.1.4 Responsibilities of the Director of Resources

1.4.1 To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.

1.4.2 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

C.1.5 Responsibilities of Directors

- 1.5.1 To notify the Director of Resources immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Council's insurers.
- 1.5.2 To take responsibility for risk management, having regard to advice from the Director of Resources and other specialist officers (e.g. fire prevention, health and safety).
- 1.5.3 To ensure that there are regular reviews of risk within their Service.
- 1.5.4 To notify the Director of Resources promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 1.5.5 To consult the Director of Resources and the Council's legal advisors on the terms of any indemnity that the authority is requested to give.
- 1.5.6 To ensure those employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

C.2. INTERNAL CONTROLS

C.2.1 Why is this important?

- 2.1.1 The Council is complex and beyond the direct control of a single individual. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 2.1.2 The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 2.1.3 The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 2.1.4 The system of internal controls is established in order to provide measurable achievement of:
 - a) efficient and effective operations;
 - b) reliable financial information and reporting;
 - c) compliance with laws and regulations;
 - d) risk management.

C.2.2 Key controls

- 2.2.1 The key controls and control objectives for internal control systems are:
 - a) key controls should be reviewed on a regular basis;

- b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
- c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems;
- d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline Guidance for Internal Auditors, CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

C.2.3 Responsibilities of the Director of Resources

- 2.3.1 To assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

C.2.4 Responsibilities of Directors

- 2.4.1 To manage processes to check that established controls are understood and being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 2.4.2 To review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Director of Resources. Directors should also be responsible, after consultation with the Director of Resources, for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

C.3. AUDIT REQUIREMENTS

C.3.1 Internal audit

3.1.1 Why is this important?

- 3.1.1.1 The Accounts and Audit Regulations 2015 (para 5) require that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.
- 3.1.1.2 Internal Audit must be seen as independent. This is achieved through operating within a framework that allows unrestricted access to senior management, reporting in its own name and segregation as far as practical from line operations. The function reports directly to the Director of Resources (also the officer designated under Section 151 of the Local Government Act 1972 as responsible for ensuring the proper administration of the Authority's financial affairs). Internal Audit also reports directly to the Audit Committee.

C.3.2 Key controls

- 3.2.1 The key controls for internal audit are:

- a) that it is independent in its planning and operation;
- b) the Audit Manager has direct access to the Chief Executive, Director of Resources, all levels of management and directly to elected Members;
- c) Internal Auditors work towards complying with the UK Public Sector Internal Audit Standards (PSIAS), and effort is made to preserve objectivity by ensuring staff are free from conflicts of interest. Therefore as far as is practical, Internal Audit will not participate in the day to day operation of any systems of internal financial control.

C.3.3 Responsibilities of the Director of Resources

3.3.1 To ensure that internal auditors have the authority to:

- a) access Council premises at reasonable times;
- b) access all assets, records, documents, correspondence and control systems ;
- c) receive any information and explanation considered necessary concerning any matter under consideration;
- d) require any employee of the Council to account for cash, materials or any other asset under his/her control;
- e) access records belonging to third parties, such as contractors, when required;
- f) obtain direct access to the Finance & Corporate Services Committee and the Audit Committee.

3.3.2 To approve the annual audit plans, prepared by the Audit Manager, and present to the Audit Committee for their approval.

3.3.3 To prepare terms of reference for the internal audit function, for approval by the Audit Committee.

3.3.4 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

C.3.4 Responsibilities of Directors

3.4.1 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

3.4.2 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

3.4.3 To respond to internal and external audit reports in writing, within a timescale agreed by the appropriate Director and the Director of Resources or External Auditor, detailing the action intended to address any recommendations.

3.4.4 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

3.4.5 To ensure that their staff report any suspicion of fraud, corruption or other financial irregularity in respect of Council funds, either directly, or via the Directors to the Director of Resources for investigation.

- 3.4.6 The Director of Resources must then arrange for appropriate investigation of the matter. The relevant Director must agree any further investigative action with the Director of Resources before proceeding.
- 3.4.7 The Director of Resources, in consultation with the relevant Director, the Monitoring Officer and the Chief Executive will advise whether any matter should be referred to the police for further investigation.
- 3.4.8 To ensure that the Director of Resources is given an opportunity, in a timely manner before live operation, to evaluate the adequacy of new systems for maintaining financial records, or records of assets, or changes to such systems.

C.3.5 External audit

3.5.1 Why is this important?

- 3.5.1.1 Under Schedule 1 of the Local Audit and Accountability Act 2014 all contracts for audit and related services, previously let by the Audit Commission, were transferred to Public Sector Audit Appointments Ltd on 1 April 2015. The external auditor has rights of access to all documents and information necessary for audit purposes (para 22 2014 Act).
- 3.5.1.2 The general duties of the external auditor are defined in the Local Audit and Accountability Act 2014 (para 20) and the Local Government Act 1999. In particular, Schedule 6 of the 2014 Act sets out that the Comptroller & Auditor General is responsible for preparing a code of audit practice, which external auditors follow when carrying out their duties. Schedule 1 of the code of audit practice sets out the auditor's statutory responsibilities across 3 main headings:
- a) Audit Scope;
 - b) Reporting;
 - c) Additional powers and duties.
- 3.5.1.3 The Council's accounts are scrutinised by external auditors, who must be satisfied that the Statement of Accounts 'presents a true and fair view' (Para 20 2014 Act) of the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.

C.3.6 Key controls

- 3.6.1 External auditors were initially appointed by Public Sector Audit Appointments Ltd, however subsequent appointments are to be made by the Local Authority for a maximum period of five years. The Comptroller & Auditor General (National Audit Office) prepares the code of audit practice, which external auditors follow when carrying out their audits.

C.3.7 Responsibilities of the Director of Resources

- 3.7.1 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- 3.7.2 To work with the external auditor and advise the Council, and Directors on their responsibilities in relation to external audit.

3.7.3 To ensure there is effective liaison between external and internal audit.

C.3.8 Responsibilities of Directors

3.8.1 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

3.8.2 To ensure that all records and systems are up to date and available for inspection.

C.4. PREVENTING FRAUD AND CORRUPTION

C.4.1 Why is it this important?

4.1.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

4.1.2 The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

4.1.3 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought of or actions involving fraud and corruption. It must guard against the possibility that these expectations will not be fulfilled in all respects.

C.4.2 Key controls

4.2.1 The key controls regarding the prevention of financial irregularities are that:

- a) the Council has an effective Anti-Fraud and Anti-Corruption Policy and maintains a culture that will not tolerate fraud or corruption;
- b) all Members and staff act with integrity and lead by example as per the relevant Code of Conduct;
- c) Managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt;
- d) high standards of conduct are promoted amongst Members by the standards committee;
- e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded;
- f) "whistle blowing" procedures are in place and operate effectively;
- g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

C.4.3 Responsibilities of the Director of Planning and Regulatory Services

4.3.1 To maintain and review an Anti-Fraud Policy.

C.4.4 Responsibilities of the Director of Resources

- 4.4.1 To maintain and review an Anti-Corruption Policy
- 4.4.2 To maintain adequate and effective internal control arrangements.
- 4.4.3 To ensure that all suspected irregularities are investigated and all proven irregularities reported to the Chief Executive.

C.4.5 Responsibilities of Directors

- 4.5.1 To ensure that all suspected irregularities are reported to the Director of Resources
- 4.5.2 To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 4.5.3 To ensure that where financial impropriety is discovered, the Director of Resources is informed. Where sufficient evidence exists to believe that a criminal offence may have been committed, after consultation with the Director of Resources, relevant Director and Chief Executive, to ensure that the Police are called in.

C.4.6 Responsibility of the Monitoring Officer

- 4.6.1 To maintain a register of interests.

C.5. ASSETS

C.5.1 Security

5.1.1 Why is this important?

- 5.1.1.1 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

C.5.2 Key controls

- 5.2.1 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
 - a) resources are used only for the purposes of the Council and are properly accounted for;
 - b) resources are available for use when required;
 - c) resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits;
 - d) an asset register is maintained for the Council, assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location, value and condition of the asset;
 - e) all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act and software copyright legislation;

- f) all staff are aware of their responsibilities with regard to safeguarding the security of the Council's Information Communication Technology (ICT) Systems, including maintaining restricted access to the information held on them and compliance with the Council's Information Communication Technology and internet security policies.

C.5.3 Responsibilities of the Director of Resources

- 5.3.1 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of a specified financial limit (see **Appendix F**). The function of the asset register is to provide the Council with information about fixed assets so that they are:
 - a) safeguarded;
 - b) used efficiently and effectively;
 - c) adequately maintained.
- 5.3.2 To receive the information required for accounting, costing and financial records from each Director.
- 5.3.3 To ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom.

C.5.4 Responsibilities of Directors

- 5.4.1 A property database shall be maintained by the Director of Resources for all properties, plant and machinery and moveable assets currently owned or used by the Council subject to the minimum values specified in **Appendix F**. Any use of property by a service other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- 5.4.2 To ensure that lessees and other prospective occupiers of council owned land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Council's legal advisor, has been established.
- 5.4.3 To ensure the proper security of all buildings and other assets under their control in accordance with laid down guidelines.
- 5.4.4 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Director and the Director of Resources (see **Appendix F**).
- 5.4.5 To pass title deeds to the Monitoring Officer who is responsible for maintaining the central repository of all title deeds.
- 5.4.6 To ensure that no Council asset is subject to personal use by a Member or employee without prior agreement of the relevant Director.
- 5.4.7 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- 5.4.8 To ensure that an inventory is maintained of moveable assets (subject to limits in **Appendix F**) in accordance with arrangements defined by the Corporate Leadership Team.

- 5.4.9 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 5.4.10 To consult the Director of Resources in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 5.4.11 To ensure cash holdings on premises are kept to a minimum.
- 5.4.12 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Director of Resources as soon as possible.
- 5.4.13 To record all disposals or part exchange of assets that should normally be by competitive tender or public auction in accordance with *Contract Procedure Rules*, unless, the Finance & Corporate Services Committee agrees otherwise.
- 5.4.14 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.
- 5.4.15 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above a specified financial limit in value (see **Appendix F**).
- 5.4.16 To carry out an annual check of all items on the inventory in order to verify location and condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers and cameras should be identified with security markings as belonging to the Council.
- 5.4.17 To make sure that property is only used in the course of the Council's business, unless the Director concerned has given permission otherwise.

C.5.5 Asset disposal

5.5.1 Why is this important?

- 5.5.1.1 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Council.

C.5.6 Key controls

- 5.6.1 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the Council, and best price is obtained in accordance with *Contract Procedure Rules* and bearing in mind other factors, such as environmental issues.
- 5.6.2 Procedures protect staff involved in the disposal from accusations of personal gain.

C.5.7 Responsibilities of the Director of Resources

- 5.7.1 To issue advice on disposal in accordance with *Contract Procedure Rules*.
- 5.7.2 To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

C.6. TREASURY MANAGEMENT

C.6.1 Why is this important?

6.1.1 Millions of pounds pass through the Council's accounts each year. This requires the establishment of codes of practice. These aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's investment.

C.6.2 Key controls

6.2.1 That the Council's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the Council's treasury management practices (TMP's).

6.2.2 That the Finance & Corporate Services Committee receives reports on Treasury activity at least twice a year in accordance with the code of practice and that the Treasury Management Strategy is subject to annual scrutiny before it is agreed.

C.6.3 Responsibilities of Director of Resources – treasury management and banking

6.3.1 To arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's treasury management practices and strategy.

6.3.2 To prepare reports for the consideration of the Finance & Corporate Services and Overview & Scrutiny Committees.

6.3.3 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the written approval of the Director of Resources in accordance with the Banking Mandate (**Appendix G**).

C.6.4 Responsibilities of Directors – treasury management and banking

6.4.1 To follow the instructions on banking issued by the Director of Resources.

C.6.5 Responsibilities of Director of Resources – investments and borrowing

6.5.1 To ensure that all investments of money are made in the name of the Council.

6.5.2 To ensure that all securities that are the property of the Council and the title deeds of all property in the Council's ownership are held in the custody of the Monitoring Officer or under arrangements approved by the Director of Resources.

6.5.3 To effect all borrowings in the name of the Council.

6.5.4 To maintain records of all borrowing of money by the Council.

C.6.6 Responsibilities of Directors – investments and borrowing

6.6.1 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council.

C.6.7 Responsibilities of Directors – funds held for third parties

6.7.1 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Director of Resources, and to maintain written records of all transactions.

C.6.8 Responsibilities of the Director of Resources – imprest accounts

6.8.1 To provide employees of the Council with cash imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.

6.8.2 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.

6.8.3 To reimburse imprest holders, as often as necessary, to restore the imprests.

C.6.9 Responsibilities of Directors – imprest accounts

6.9.1 To ensure that employees operating an imprest account:

- a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained;
- b) make adequate arrangements for the safe custody of the account;
- c) produce upon demand by the Director of Resources cash and all vouchers to the total value of the imprest amount;
- d) record transactions promptly;
- e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder;
- f) provide the Director of Resources with a certificate of the value of the account held at 31 March each year;
- g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made.

C.7. STAFFING

C.7.1 Why is this important?

7.1.1 In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

C.7.2 Key controls

7.2.1 The key controls for staffing are:

- a) procedures are in place for forecasting staffing requirements and cost;
- b) controls are implemented to ensure that staff time is used efficiently and to the benefit of the Council;
- c) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced, lawfully resident and trustworthy.

C.7.3 Responsibilities of the Director of Resources

- 7.3.1 To act as an advisor to Directors on areas such as Income Tax, National Insurance and pension contributions, as appropriate.
- 7.3.2 To ensure that staff costs are charged accurately to allow Directors to monitor staffing budgets effectively.

C.7.4 Responsibilities of Directors

- 7.4.1 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- 7.4.2 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- 7.4.3 To ensure that the Director of Resources is immediately informed if the staffing budget is likely to be materially over- or under-spent.

D. FINANCIAL SYSTEMS AND PROCEDURES

D.1. GENERAL

D.1.1 Why is this important?

1.1.1 Services have systems and procedures relating to the control of the Council's assets. Services are reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

1.1.2 The Director of Resources is responsible for ensuring that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

D.1.2 Key controls

1.2.1 The key controls for systems and procedures are:

- a) basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated;
- b) performance is communicated to the appropriate managers on an accurate, complete and timely basis;
- c) early warning is provided of deviations from target, plans and budgets that require management attention;
- d) operating systems and procedures are secure.

D.1.3 Responsibilities of the Director of Resources

1.3.1 To make arrangements for the proper administration of the Council's financial affairs, including to:

- a) issue advice, guidance and procedures for officers and others acting on the Council's behalf;
- b) determine the accounting systems, form of accounts and supporting financial records;
- c) establish arrangements for audit of the Council's financial affairs;
- d) approve any new financial systems to be introduced;
- e) approve any changes to be made to existing financial systems.

1.3.2 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.

1.3.3 To ensure that, where appropriate, computer systems are registered in accordance with Data Protection legislation and that staff are aware of their responsibilities under the legislation.

D.1.4 Responsibilities of Directors

1.4.1 To ensure that accounting records are properly maintained and held securely.

1.4.2 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Director of Resources.

- 1.4.3 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 1.4.4 To incorporate appropriate controls to ensure that, where relevant:
- a) all input is genuine, complete, accurate, timely and not previously processed;
 - b) all processing is carried out in an accurate, complete and timely manner;
 - c) output from the system is complete, accurate and timely.
- 1.4.5 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 1.4.6 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 1.4.7 To ensure that systems are documented and staff trained in operations.
- 1.4.8 To consult with the Director of Resources before changing any existing system or introducing new systems.
- 1.4.9 In consultation with the Director of Resources to establish a scheme of delegation identifying officers authorised to act upon the Directors behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 1.4.10 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Director of Resources, together with any subsequent variations.
- 1.4.11 To ensure that relevant standards and guidelines for ICT systems issued by the Director of Resources or IT Manager are observed.
- 1.4.12 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 1.4.13 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- a) only software legally acquired and installed by the Council is used on its computers;
 - b) staff are aware of legislative provisions;
 - c) in developing systems, due regard is given to the issue of intellectual property rights.

D.2. INCOME AND EXPENDITURE

D.2.1 Income

2.1.1 Why is this important?

- 2.1.1.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash-flow and also avoids the time and cost of administering debts.

D.2.2 Key controls

2.2.1 The key controls for income are:

- a) all income due to the Council is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;
- b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery;
- c) all money received by an employee on behalf of the Council is paid in without delay through the Council's payment facility, as the Director of Resources directs, to the Council's bank account, and properly recorded. The responsibility for cash collection should be separated from that:
 - i. for identifying the amount due
 - ii. for reconciling the amount due to the amount received
- d) effective action is taken to pursue non-payment within defined timescales;
- e) formal approval for debt write-off is obtained;
- f) appropriate write-off action is taken within defined timescales;
- g) appropriate accounting adjustments are made following write-off action;
- h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention guidelines;
- i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

D.2.3 Responsibilities of the Director of Resources

- 2.3.1 To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- 2.3.2 To approve all debts to be written off in consultation with the relevant Director and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 2015.
- 2.3.3 To obtain the approval of the Finance & Corporate Services Committee in consultation with the relevant Director for writing off debts in excess of a specified financial limit (see **Appendix F**)
- 2.3.4 To ensure that appropriate accounting adjustments are made following write-off action.
- 2.3.5 To order and supply to services all receipt forms, books or tickets and similar items and to satisfy himself/herself regarding the arrangements for their control.

D.2.4 Responsibilities of Directors

- 2.4.1 To implement the charging policy for the supply of goods or services, including the appropriate charging of VAT (in consultation with the Director of Resources where appropriate), and to review it regularly, in line with corporate policies.
- 2.4.2 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

- 2.4.3 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 2.4.4 To issue official receipts or to maintain other documentation for income collection.
- 2.4.5 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 2.4.6 To hold securely receipts, tickets and other records of income for the appropriate period in accordance with the documentation retention policy.
- 2.4.7 To secure all income to safeguard against loss or theft, and to ensure the security of cash handling.
- 2.4.8 To ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- 2.4.9 To ensure personal cheques or other payments are not en-cashed.
- 2.4.10 To supply the Director of Resources with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Director of Resources to record correctly the sums due to the Council and to ensure accounts are sent out promptly. Directors have a responsibility to assist the Director of Resources in collecting debts that they have originated, by providing any further information requested about the debtor, and in pursuing the matter on the Council's behalf.
- 2.4.11 To notify the Director of Resources of outstanding income relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the Director of Resources and not later than 15th April.

D.3. ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

D.3.1 Why is this important?

- 3.1.1 Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's *Contract Procedure Rules*.

D.3.2 General

- 3.2.1 Every Officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.
- 3.2.2 Official orders must be in a form approved by the Director of Resources. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments, petty cash purchases or other exceptions specified by the Director of Resources.

- 3.3.3 Each order must conform to the guidelines approved by the Council on procurement Standard terms and conditions and must not be varied without the prior approval of the Director of Resources.
- 3.3.4 Apart from petty cash, the normal method of payment from the Council shall be by cheque or BACS drawn on the Council's bank account by the Director of Resources. The use of direct debit shall require the prior agreement of the Director of Resources. The use of Council procurement/business cards by non card holders shall require the prior agreement of the Director of Resources.
- 3.3.5 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts, except where there is a specific Council policy to the contrary.
- 3.3.6 Detailed regulations relating to Procurement are set out in the Council's ***Contract Procedure Rules***.
- 3.3.7 Where an order is not appropriate as discussed in section 3.2.2, authorisation must be provided on the specified form and attached to the invoice for payment. Authorisation thresholds for Officers are set out in **Appendix H**.

D.3.3 Key controls

- 3.3.1 The key controls for ordering and paying for work, goods and services are:
- a) all goods and services are ordered only by authorised persons and are correctly recorded;
 - b) all goods and services shall be ordered in accordance with the Council's ***Contract Procedures Rules***;
 - c) goods and services received are checked to ensure they are in accordance with the order;
 - d) payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards;
 - e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method;
 - f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention guidelines;
 - g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected by journal;
 - h) in addition e-commerce requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

D.3.4 Responsibilities of the Director of Resources

- 3.4.1 To ensure that all the Council's financial systems and procedures are sound and properly administered.
- 3.4.2 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 3.4.3 To approve the form of official orders and associated terms and conditions in consultation with the Council's legal advisors.

- 3.4.4 To make payments from the Council's funds on the Director's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 3.4.5 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 3.4.6 To make payments to contractors on the certificate of the appropriate Director, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 3.4.7 To provide advice and encouragement on making payments by the most economical means, in accordance with the Council's Procurement Strategy and associated guidance.
- 3.4.8 To ensure that payment is not made unless a proper VAT invoice, where appropriate, has been received, checked and coded, confirming:
 - (a) that the invoice has not previously been paid;
 - (b) that expenditure has been properly incurred;
 - (c) that prices and arithmetic are correct;
 - (d) correct accounting treatment of tax;
 - (e) that discounts have been taken where available;
 - (f) that appropriate entries will be made in accounting records.
- 3.4.9 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice, except where the original invoice has been lost, in which case a check must be made to see if payment has been made and if it has not the copy annotated accordingly prior to payment.

D.3.5 Responsibilities of Directors

- 3.5.1 To ensure that official orders are issued via the e-procurement system for all goods and services, other than the exceptions as specified in 3.2.2.
- 3.5.2 To ensure that orders are only used for goods and services provided to the service. Individuals must not use official orders to obtain goods or services for their private use (see 3.3.5).
- 3.5.3 To ensure that only staff authorised to raise orders (Buyers) via the e-procurements system have access to the system. To ensure that only staff authorised to approve orders above the specified limit have access to the system. Buyers and Approvers should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best Value principles should underpin the Council's approach to procurement. Value for money should always be achieved.
- 3.5.4 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories if necessary.
- 3.5.5 To ensure that the e-payment system is updated to show the receipt of goods, immediately after the goods are received.

- 3.5.6 Wherever possible to ensure that two authorised members of staff are involved in the ordering and receiving process.
- 3.5.7 To encourage suppliers of goods and services to receive payment by the most economical means for the Council. It is essential, however, that payments made by direct debit have the prior approval of the Director of Resources.
- 3.5.8 To ensure that the service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality. Due regard to be taken of the Council's procurement strategy and associated procurement guidance.
- 3.5.9 To ensure that employees are aware of the national code of conduct for local government employees specified in personnel policies.
- 3.5.10 To ensure that, loans, leasing or rental arrangements are not entered into without prior agreement from the Director of Resources.
- 3.5.11 To notify the Director of Resources of outstanding expenditure relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the Director of Resources.
- 3.5.12 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Director of Resources the systems and procedures to be adopted in relation to financial aspects. This includes certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- 3.5.13 To notify the Director of Resources immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 3.5.14 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention guidelines.

D.4. PAYMENTS TO EMPLOYEES AND MEMBERS

D.4.1 Why is this important?

- 4.1.1 Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the Council.

D.4.2 Key controls

- 4.2.1 The key controls for payments to employees and Members are:

- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
 - i. starters
 - ii. leavers

- iii. variations
 - iv. enhancements
 - v. and that payments are made on the basis of timesheets or claims;
 - vi. frequent reconciliation of payroll expenditure against approved budget and bank account;
- (b) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention guidelines;
- (c) that HM Revenues and Customs regulations are complied with.

D.4.3 Responsibilities of the Director of Resources

- 4.3.1 To arrange and control the secure and reliable payment of salaries, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him/her, on the due date.
- 4.3.2 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention guidelines.
- 4.3.3 To record and make arrangements for the accurate and timely payment of tax, pensions and other deductions.
- 4.3.4 To make arrangements for payment of all travel and subsistence claims.
- 4.3.5 To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.3.6 To ensure that adequate and effective systems and procedures are operated, so that:
- (a) payments are only authorised to bona fide employees;
 - (b) payments are only made where there is a valid entitlement;
 - (c) conditions and contracts of employment are correctly applied, employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 4.3.7 To ensure that the Director of Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system (P11d).

D.4.4 Responsibilities of Directors

- 4.4.1 To send an up-to-date list of the names of officers authorised to sign records to the Director of Resources, together with specimen signatures.
- 4.4.2 To ensure that payroll transactions are processed only through the payroll system. Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HM Revenues and Customs applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Director of Resources.

- 4.4.3 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and the Director of Resources is informed where appropriate.
- 4.4.4 To make, having regard to the particular circumstances of each case, ex gratia payments not exceeding a specified financial limit (see **Appendix F**) in any one case, subject to consultation with the Director of Resources. The circumstances of the proposed payment must not have the effect of circumventing other Council pay and allowance policies, tax rules or other legislation.
- 4.4.5 To notify the Director of Resources of all appointments, terminations or variations that may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Director of Resources.
- 4.4.6 To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.

D.4.5 Responsibilities of Members and Officers

- 4.5.1 To submit claims for travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

D.5. TAXATION

D.5.1 Why is this important?

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

D.5.2 Key controls

- 5.2.1 The key controls for taxation are:
- (a) Finance staff remain abreast of tax legislation, in particular that relating to PAYE, NICs, CIS and VAT.
 - (b) budget managers are provided with relevant information and kept up to date on tax issues;
 - (c) budget managers are instructed on required record keeping;
 - (d) all taxable transactions are identified, properly carried out, accounted for within stipulated time-scales and paid through appropriate financial systems;
 - (e) records are maintained in accordance with instructions;
 - (f) returns are made to the appropriate authorities within the stipulated timescale.

D.5.3 Responsibilities of the Director of Resources

- 5.3.1 To complete all HM Revenues and Customs returns regarding PAYE and NIC's.
- 5.3.2 To complete a monthly return of VAT inputs and outputs to HM Revenues and Customs.

5.3.3 To provide details to HM Revenues and Customs regarding the construction industry tax deduction scheme in accordance with their deadlines.

5.3.4 To provide guidance for Council employees on taxation issues (including VAT).

D.5.4 Responsibilities of Directors

5.4.1 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenues and Customs regulations.

5.4.2 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

5.4.3 To follow any guidance on taxation issued by the Director of Resources.

D.6. TRADING ACCOUNTS AND BUSINESS UNITS

D.6.1 Why is this important?

6.1.1 Trading accounts have become more important as local authorities have developed a more commercial culture.

D.6.2 General

6.2.1 Trading activities must operate within the Council's overall arrangements and rules for financial, personnel and resource management. Exceptionally, where it can be demonstrated that this would lead to a unit being uncompetitive and losing work, special arrangements can be considered. While the Programme committees have an overall responsibility for the operations of trading activities, clearly trading activities need freedom within this framework to operate on a commercial basis. Trading activities must adhere to Financial Regulations, unless alternative arrangements are explicitly identified and agreed in writing with the Director of Resources.

D.6.3 Responsibilities of the Director of Resources

6.3.1 To advise on the establishment and operation of trading accounts.

D.6.4 Responsibilities of Directors

6.4.1 To ensure that the control of the trading activity will be to the financial target (the 'bottom line') rather than to individual expenditure and income estimate headings

6.4.2 To ensure that as a minimum, a break even position should be achieved.

6.4.3 To report to the Finance & Corporate Services Committee, where a trading activity plans a significant item of expenditure (e.g. a capital scheme, the purchase of a major item of computer software or the creation of a major ongoing revenue commitment), prior to the expenditure being committed, unless already in an approved capital programme

6.4.4 To make a full report to the Finance & Corporate Services Committee, as soon as it is known that the trading activity may make a deficit.

APPENDIX 6
Appendix D

- 6.4.5 To make a report to the Finance & Corporate Services Committee on the outturn of each trading activity compared to the financial plan.
- 6.4.6 To consult with the Director of Resources and the Council's legal advisors where a trading activity wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.

E. EXTERNAL ARRANGMENTS

E.1. PARTNERSHIPS

E.1.1 Why is this important?

1.1.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

1.1.2 Local authorities usually act as an “enabler” and will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

E.1.2 General

1.2.1 The main reasons for entering into a partnership are:

- a) the desire to find new ways to share risk;
- b) the ability to access new resources;
- c) to provide new and better ways of delivering services;
- d) to forge new relationships.

1.2.2 A partner is defined as either:

- a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project or;
- b) a body whose nature or status give it a right or obligation to support the project.

1.2.3 Partners participate in projects by:

- a) acting as a project deliverer or sponsor, solely or in concert with others;
- b) acting as a project funder or part funder;
- c) being the beneficiary group of the activity undertaken in a project.

1.2.4 Partners have common responsibilities:

- a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- b) to act in good faith at all times and in the best interests of the partnership’s aims and objectives;
- c) be open about any conflict of interests that might arise;
- d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;
- f) to act wherever possible as ambassadors for the project.

E.1.3 Key controls

1.3.1 The key controls for Council partners are:

- a) if appropriate, to be aware of their responsibilities under the Council's financial regulations and procedures together with *Contract Procedure Rules*;
- b) to ensure that risk management processes are in place to identify and assess all known risks;
- c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences;
- e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

E.1.4 Responsibilities of the Director of Resources

1.4.1 To advise on effective controls that will ensure that resources are not wasted.

1.4.2 To advise on the key elements of funding a project. They include:

- a) a scheme appraisal for financial viability in both the current and future years;
- b) risk appraisal and management;
- c) resourcing, including taxation issues;
- d) audit, security and control requirements;
- e) carry-forward arrangements.

1.4.3 To ensure that the accounting arrangements are satisfactory.

1.4.4 To maintain a register of all contracts entered into with external bodies.

1.4.5 To ensure that spending has occurred in line with the terms and conditions and any eligibility criteria.

E.1.5 Responsibilities of Directors

1.5.1 To ensure that, before entering into agreements with external bodies the Council's legal advisors are consulted.

1.5.2 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared.

1.5.3 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.

1.5.4 To ensure that all agreements and arrangements are properly documented.

- 1.5.5 To provide appropriate information to the Director of Resources to enable a note to be entered into the Council's Statement of Accounts concerning material items.

E.2. EXTERNAL FUNDING

E.2.1 Why is this important?

- 2.1.1 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

E.2.2 Key controls

- 2.2.1 The key controls for external funding are:
- a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;
 - b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council;
 - c) to ensure that any match-funding requirements and future revenue implications are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

E.2.3 Responsibilities of the Director of Resources

- 2.3.1 To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 2.3.2 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- 2.3.3 To ensure that audit requirements are met.

E.2.4 Responsibilities of Directors

- 2.4.1 To ensure that all claims for funds are made by the due date.
- 2.4.2 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

E.3. WORK FOR THIRD PARTIES

E.3.1 Why is this important?

- 3.1.1 Legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risk associated with this work is minimised and that such work is intra vires.

E.3.2 Key controls

3.2.1 The key controls for working with third parties are:

- a) to ensure that proposals are costed properly in accordance with guidance provided by the Director of Resources;
- b) to ensure that contracts are drawn up using guidance provided by the Director of Resources and that the formal approvals process is adhered to;
- c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

E.3.3 Responsibilities of Director of Resources

3.3.1 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

E.3.4 Responsibilities of Directors

3.4.1 To ensure that the approval of the appropriate Programme committee is obtained before any negotiations are concluded to work for third parties.

3.4.2 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Director of Resources.

3.4.3 To ensure that appropriate insurance arrangements are made.

3.4.4 To ensure that the Council is not put at risk from any bad debts.

3.4.5 To ensure that no contract is subsidised by the Council.

3.4.6 To ensure that, wherever possible, payment is received in advance of the delivery of the service.

3.4.7 To ensure that the service has the appropriate expertise to undertake the contract.

3.4.8 To ensure that such contracts do not impact adversely upon the services provided for the Council.

3.4.9 To ensure that all contracts are properly documented.

3.4.10 To provide appropriate information to the Director of Resources to enable a note to be entered into the Statement of Accounts.

F. FINANCIAL LIMITS

F.1. General

F.1.1 Throughout these regulations, there are references to financial limits. These limits will need to be reviewed on a regular basis and, consequently, the latest figures have been consolidated in this appendix in order to facilitate any future changes. The regulations which contain financial limits are listed below:

F.1.2 Virements between Directorates require the approval of the Finance & Corporate Services Committee subject to the authorisation limits set out below. For the purpose of virements, salaries are to be considered as a Directorate in their own right and are under the control of the Head of Paid Service.

F.1.3 The use of reserves is to be approved through the same authorisation process as virements where not approved as part of the annual budget or accounts processes, or have specific delegation.

F.1.4 The financial limits for approval of revenue virements and revenue supplementary estimates are set out below:

(a) Virements within same Directorate

Relevant Director and Director of Resources

(b) Virements between different Directorates

(i) Up to **£20,000** – Director and Director of Resources and reported quarterly to members via email.

(ii) Over **£20,000** up to **£50,000** - Director, Director of Resources in consultation with relevant Programme committee Chairman; and reported to the next Finance & Corporate Services Committee meeting;

(iii) Over **£50,000** - the Finance & Corporate Services Committee.

(c) Supplementary Estimates

(i) Up to **£20,000** – Director, Director of Resources and Chief Executive in consultation with the Chairman of the Finance & Corporate Services Committee and the Leader and reported to the next Finance & Corporate Services Committee;

(ii) Over **£20,000** – the Finance & Corporate Services Committee.

NB One of the Council's budget policies is to only agree supplementary estimates in exceptional circumstances.

F.1.5 A capital scheme (an identifiable project) is where expenditure exceeds **£10,000**.

F.1.6 The financial limits for approval of capital virements and capital supplementary estimates are the same as for revenue.

F.1.7 Any excess expenditure over the approved contract sum of more than **5%** or **£10,000** whichever is the greater must be reported to the Programme committee (Appendix B paragraph 2.19.8).

- F.1.8** The asset register shall contain all assets with a value in excess of **£10,000** (Appendix C paragraph 5.3.1).
- F.1.9** All items with a value in excess of **£500** shall be included in inventories (Appendix C paragraph 5. 4.15). IT assets (laptops, monitors, printers etc but excluding IT peripherals) are an exception to this limit as are more desirable, and are all recorded on the IT inventory.
- F.1.10** Finance & Corporate Services Committee approval is required to declare land surplus to requirements where the value exceeds **£10,000** (Appendix C paragraph 5.4.4).
- F.1.11** Finance & Corporate Services Committee approval is required to write-off bad debts in excess of **£10,000** (Appendix D paragraph 2.3.3), in the case of Non Domestic Rates Debts this is increased to **£20,000**.
- F.1.12** Finance & Corporate Services Committee approval is required to make ex-gratia payments in excess of **£2,000** (Appendix D paragraph 4.4.4).
- F.1.13** Finance limits relating to contracts are contained in the Council's *Contract Procedure Rules*.

G. BANK MANDATE

- G.1. Subject to an adequate indemnity and satisfactory security arrangements being maintained, pre-signed cheques may be used for payments not exceeding £10,000. The facsimile signature of the Chief Executive shall appear on all pre-signed cheques.
- G.2. Cheques above £10,000 shall be countersigned by the Director of Resources or, in his/her absence, the Chief Executive or the Director of Customers and Community or the Director of Planning and Regulatory Services.
- G.3. Amendments to cheques can be countersigned by the above and additionally the Finance Manager for cheques up to £10,000.
- G.4. Manual CHAPS payments shall be signed by any of the following:
- a) Director of Resources
 - b) Chief Executive
 - c) Director of Customers and Community
 - d) Director of Planning and Regulatory Services
- G.5. All arrangements with the Council's financial institutions shall be made by the Director of Resources who shall be authorised to operate such banking accounts/investments/financial instruments as he/she may consider necessary.
- G.6. All cheques shall be ordered only on the authority of the Director of Resources or under arrangements made by him/her.
- G.7. All cheques shall be ensured are kept in safe custody by the Director of Resources until issue.
- G.8. All instructions relating to the Council's banking accounts, shall be authorised by the Director of Resources or Officers authorised by him or her.
- G.9. Payments may be made by BACS or CHAPS electronic transmission subject to two authorised card holder authentications and authorisation in accordance with the following limits:
- Up to £50,000 - Officers delegated by Directors under the scheme of delegation
Above £50,000 - Directors or Chief Executive

H. AUTHORISATION ARRANGEMENTS

Total Value	Category	Authorisation Level
Up to £5,000	Electronic Orders	<i>Authorised buyer</i>
£5,001 to £50,000	Invoice Authorisations, Electronic Order Approvals, Mileage and Expenses Claims	<i>Line Manager</i>
Above £50,001*	Invoice Authorisations and Order/Contract Approvals	<i>Director or Chief Executive</i>

* Note requirement for written contracts above £50,000 – See Section 16.2 of Contract Procedure Rules.

Definitions (as per Contract Procedure Rules)

Approved Buyer- An Officer designated by a Director who is authorised to generate electronic orders on behalf of the Council.

Line Manager - An *Officer* designated by the *Director* to exercise the role reserved to the line manager by the contract procedure rules, this will be a Level 2 Manager.

Director- One of three Directors responsible for operational delivery of services and designated as such in the constitution.

I. DELEGATIONS

I.1.1 Introduction

- 1.1.1. The Status of financial regulations section in this document refer to Directors and Officers delegating their responsibilities per these financial regulations. Delegation should be given in writing, however there are instances where this isn't necessary or not possible due to sickness/leave.
- 1.1.2. These delegations are only applicable where decisions/actions are required urgently and the relevant officer is not available and written delegation has not been made as not known required.
- 1.1.3. There are statutory delegations for statutory posts, the Monitoring Officer, Section 151 Officer and Returning Officer, who all have a Deputy. Written delegation is not required for these posts to act in the full capacity.
- 1.1.4. Other Officer delegations:-

Officer	Delegation given to:
Chief Executive	Service Director
Service Director	Another Service Director
Group Manager	Service Director

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This document is due for review by the date shown above, after which it may become invalid. Users of the strategy or policy should ensure that they are consulting the currently valid version of the document.

MALDON DISTRICT COUNCIL

COMMISSIONING AND PROCUREMENT STRATEGY



MALDON DISTRICT
COUNCIL

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Maldon District Council Procurement Strategy

1 INTRODUCTION

- 1.1 The local government procurement landscape is changing; this strategy document aims to clarify Maldon District Council's approach to Procurement activity within this changing environment.
- 1.2 Since the last strategy was adopted in 2012 a number of new external influences have been taken into account, including:
- Public Services (Social Value) Act (2012).
 - The current draft of the National Procurement Strategy (due to be operational from late 2015).
 - Public Contract Regulations (2015).
- 1.3 Maldon District Council ('the Council') spends approximately £7 million on the procurement of goods, works and services. This strategy outlines the Council's current method of undertaking procurement and seeks to lay foundation for the future way in which procurement is addressed. This strategy is a 'living' document that will be updated at regular intervals in accordance with Council policy or through statutory amendments.
- 1.4 The Leadership Team are responsible for ensuring that the principles of this strategy are adopted and to promote its implementation within their own service area. Members are expected to use this strategy as a sense-check to review officer procurement decision-making through the relevant committees.

2 WHAT IS SUSTAINABLE COMMISSIONING AND PROCUREMENT?

- 2.1 **Commissioning** – the whole process of deciding what services are needed, their priority, and choosing what, why, how and where to allocate resources to provide them.
- 2.2 **Procurement** – the acquisition of goods, works and services which meet the customers' and service users' needs, whilst ensuring value for money throughout the life of the product including disposal.
- 2.3 **Sustainable procurement** – the acquisition of goods/works/services in a way that achieves value for money on a whole life basis by not only generating benefits for the Council for our communities and economy whilst minimising environmental damage.
- 2.4 **Value for Money** – also often described in terms of the 'three Es' – economy, efficiency and effectiveness:
- **Economy** – careful use of resources to save expense, time and/or effort.
 - **Efficiency** – delivering the same level of service for less cost, time and/or effort.
 - **Effectiveness** – delivering a better service or getting a better return for the

same amount of expense, time and/or effort.

- 2.5 Procurement is the method by which all goods, services and works are acquired. This includes everything from day to day purchases of consumables through to the acquisition of strategic services and works irrespective of value. However, procurement is more than just buying goods, works and services – it plays an increasingly strategic role in the way we deliver services.
- 2.6 In Public Procurement there are generally three procurement categories: goods, works and services.
- 2.6.1 Goods are physical products purchased or manufactured on request. There is usually an element of service involved, such as when the agreement is for the purchase of goods to be assembled and/or installed. However, the extent of the service provided is directly related to acceptance of the goods purchased. Typical examples of goods are: office supplies and equipment, furniture, IT equipment, books, vehicles, medical supplies and other commodities.
- 2.6.2 Works are related to civil works; this includes new construction of structures of all kinds (buildings, highways, bridges, etc), renovations, extensions, and repairs. This category can also include, water and sanitation, transportation and electrical plant infrastructure.
- 2.6.2 Services are classified as consulting services and non-consulting services. In some cases, they are simply classified as services because of the difficulty, at times, in clearly determining the difference. The distinguishing factor between the two, however, is the degree of importance of the measurable physical output of the requirement.
- Consulting services are usually intellectual in nature and are considered technical services the output of which is not equipment intensive. Advisory and project related services are typical consulting services; which includes: feasibility studies, project management, engineering services, finance and accounting services, training and development, to mention a few.
- Non-consulting services, on the other hand, usually involve the used of equipment and specific methodologies to achieve their objectives. Some typical examples of non-consulting services are: equipment maintenance and repair, operation and maintenance services, utility management, installation and maintenance services, surveys and field investigations, and similar.
- 2.7 Procurement should challenge existing service delivery models, and identifies and delivers the right future model of service provision.
- 2.8 The aim of effective procurement is to achieve best value through planned and skilful procurement, in respect of all goods, works and services sought by the Council. Also to support and encourage a vibrant local supplier market, remove barriers to trade for small to medium enterprises and voluntary organisations (such as splitting larger requirements into Lots) and giving appropriate consideration to Social Value.
- 2.9 Officers of Maldon District Council are required to comply with internal Contract

Procedure Rules as well as external laws, regulations and policy guidance at all times, in every procurement exercise regardless of contract value.

3 STRATEGIC OBJECTIVES

3.6 The Procurement Strategy supports the Council's Corporate Plan. At a general level, procurement of goods, works and services assists in delivering the Council's strategic objectives and statutory responsibilities:

- 3.6.1 by ensuring procurements reflect relevant sustainability and environmental issues and ensure procurement processes support and reflect the aim of protecting our environment for future generations;
- 3.6.2 by ensuring procurement guidance is clear and simple, and that relevant contracts are advertised and accessible to all. The procurement processes used do not unfairly limit the opportunity to bid for Social Enterprises/Third Sector organisations;
- 3.6.3 provide feedback to bidders to support the development and overall competitiveness of these organisations;
- 3.6.4 by encouraging an effective local supplier market and the promotion of local social value in contracts (such as the creation of apprenticeships and local supply chains);
- 3.6.5 by aiming to ensure each procurement encapsulates the best value solution for the District. Using the procurement cycle to assist in identifying improvements to services and support the delivery of value for money services. To eliminate anything that does not add value to the procurement; and
- 3.6.6 by working closely with partner organisations such as the Essex Procurement Hub, East of England LGA, and the Procurement Agency for Essex and other partnership groups to deliver savings and efficiencies through collaboration.

3.7 Other Corporate documents linked to this Strategy:

- 3.7.1 Business Plan
- 3.7.2 Financial Regulations
- 3.7.3 Contract Procedure Rules

Links between this policy and our Corporate Priorities

3.8 This policy supports our Corporate Priorities in the following way:

3.8.1 Enable communities: We will engage with all parts of our communities, including Parish Councils, businesses and our residents to encourage the most efficient way to provide services by:

3.8.1.1 Seeking to secure the best outcomes for the local community by making use of all available resources – without regard to whether services are provided in-house, externally or through partnership arrangements.

3.8.1.2 Continuously improving services through the adoption of innovative practices so that service users see an improvement in both quality and value for money.

3.8.1.3 Adopting a collaborative approach to procurement by participating in framework contracts.

3.8.1.4 Ensure we engage the diverse needs of the Community.

3.8.1.5 Improving understanding of procurement and commissioning for both internal and external stakeholders.

3.8.2 Early Intervention: We will promote the safeguarding of our young and vulnerable residents by

3.8.2.1 Ensuring that arrangements are in place with contractors to safeguard children and vulnerable adults in accordance with legislation (existing contracts).

3.8.2.2 Ensure that the Councils procurement process required suppliers to comply with safeguarding requirements (new contracts).

3.8.2.3 Monitoring and reporting compliance with procurement policies and procedures.

4 PROCUREMENT RESOURCE

4.6 Maldon District Council is a small District Council with limited resources and it is not feasible to employ a full-time professionally qualified procurement resource.

4.7 The Essex Procurement Hub (EPH), hosted by Braintree District Council, was joined in April 2014 and provides procurement expertise for all aspects of procurement at Maldon. The shared service, which has six members, ensures Maldon has access to a fully qualified procurement professional for two days a week. In addition to being used to undertake high value and high risk procurements, this resource also helps Maldon to provide guidance, a toolkit and training opportunities to all officers of the Council involved in procuring goods and services.

5 GOVERNANCE AND RESPONSIBILITY

5.6 Procurement of goods, works and services across the Council has to be carried out within a number of controls including legislative and governance issues. In addition the Council has other policies, which must be adhered to as part of any procurement activity.

5.7 The Council will ensure that our procedure rules continue to be relevant and are compliant with EU regulations. The Council will hold the highest principles of fairness, transparency and openness within all procurement activity.

5.8 The key control over procurement activities is the Council's Contract Procedure Rules (CPRs), which set out the rules governing all aspects of procurement activity and outlines procedures to be followed for procurements that fall within set levels of spend. These are attached to this policy, Contract Procedure Rules.

5.9 The Director of Resources has overall strategic responsibility for procurement at Maldon, whilst operational responsibility lies with Managers.

5.10 Training is made available to staff engaged in Procurement. Procurement workshops are run in conjunction with the Essex Procurement Hub.

5.11 All the Official Journal of the European Union (OJEU) procurement projects must have sign off at PQQ in full and evaluation provided by Financial services and Procurement Consultant. .

5.12 All procurement must consider responsibilities and requirements for:

5.12.1 Safeguarding

5.12.2 Sustainability

5.12.3 Equalities

5.12.4 Social Value

5.12.5 Health and Safety

5.13 The Project Initiation Document (PiD) should allow considerations to be identified and assessed at the pre-procurement stage.

5.14 All procurement of contracts with a value of above £25,000 must have designated performance management criteria determined at the start of the contract, the results of which must be reported back to Members in June each year as part of the Annual Performance Monitoring of contractors.

6 E-PROCUREMENT

- 6.6 The National Procurement Strategy (NPS) places certain responsibilities on all Councils which includes use of e-procurement and the consideration of social value in procurement.
- 6.7 The Council has deployed Essex Marketplace solution for electronic ordering of goods and services.
- 6.8 The Council is using its website to promote good practice.
- 6.9 To support the delivery of this strategy the Council will continue to utilise electronic procurement systems. Electronic procurement systems can achieve efficiencies in the procure-to-pay cycle including reduction in processing time and reduction in transaction costs. This will help free resources that can be directed into front line services.

7 SUSTAINABLE PROCUREMENT

The Environment

- 7.6 We also will require operators of (*significant*) contracts to adopt whole life-cycle thinking in the delivery of services on the Council's behalf. Where relevant, examples may include the purchase and use of vehicles, equipment, energy, water and chemicals.
- 7.7 One of the goals of the Council's Climate Change Commitment is to lead the local community in minimising its environmental impact. Through green procurement the Council is setting an example and influencing the market-place by providing industry with real incentives for developing green technologies.
- 7.8 Sustainable procurement is the process of acquiring goods, works and services from a supplier that provides the optimum combination of whole life costs and benefits to meet the customer's requirement. In order to achieve this we will:
 - 7.8.1 Account for environmental aspects of a product alongside societal and economic aspects in the tendering process. Deliver appropriate training for purchasing staff, ensuring access to environmental information.
 - 7.8.2 Adopt a life-cycle thinking approach to avoid shifting environmental impact. Products with Eco-labels should be purchased wherever possible.
 - 7.8.3 Develop an energy efficiency standard for the procurement of electrical goods.
 - 7.8.4 Encourage an ethic of reduce, reuse, recycle amongst purchasing staff. New cars purchased for the Council Fleet should have the lowest emissions standard possible whilst remaining fit for purpose.

The Community

- 7.9 We will encourage a diverse and competitive supply market by ensuring that local businesses are given an equal opportunity to participate in competition for Council business, whilst still maintaining a competitive supply market by:
- 7.9.1 Encouraging local businesses to register with Contracts Finder.
 - 7.9.2 Providing clear advice and guidance to local businesses about how to bid for the Council's work.
 - 7.9.3 Encouraging the employment of local labour by the Council's successful contractors.
 - 7.9.4 Ensuring contracts are structured so as not to prejudice local businesses.
 - 7.9.5 Exploring how to better engage with ethnic, disabled and other minority group suppliers.

8 PARTNERING AND COLLABORATION

- 8.6 The Council defines partnering as the creation of sustainable, collaborative relationships with suppliers to deliver services, carry out projects and acquire goods.
- 8.7 Collaboration is the process of working with other authorities or agencies to combine buying power and leverage based on higher levels of spend, to gain more favourable pricing and terms from suppliers when procuring goods, works or services.
- 8.8 The Council welcomes partnerships with other agencies which share its community and corporate aims. Therefore, to exploit these, the Council will:
- 8.8.1 Include partnership options when undertaking service reviews and other appraisals.
 - 8.8.2 Through the EPH and in collaboration with neighbouring authorities develop sub regional and local procurement programmes and combine procurement options for the management of contracts as well as provision of services, works and supplies.
 - 8.8.3 Support the voluntary sector to engage with the Council and explore the potential for partnerships with local voluntary sector agencies interested in the provision of services for local people.
 - 8.8.4 Explore partnering opportunities with other agencies for significant construction projects.

9 CONDUCTING PROCUREMENT ACTIVITY AND RESOURCES

Social Value

- 9.6 The Social Value Act requires service related procurements over the EU threshold to consider social value. The act requires considerations to be proportionate and relevant to the particular requirement therefore where appropriate, the Council will use the full procurement cycle to consider how to improve the economic, social and environmental well-being of the District.
- 9.7 Considerations can be built in to the procurement process and could include adapting evaluation criteria or a requirement for contractors to support an apprenticeship scheme.

Equality

- 9.8 Procurement processes and documentation will reflect the Council's Equalities and Diversity Policy.
- 9.9 The Council will work with partners and suppliers to ensure that suppliers are, as a minimum, compliant with the relevant legislation, both at the inception of contracts and through their effective life.

Safeguarding and Health & Safety

- 9.10 All services commissioned by the Council are required to operate within the requirements of the Council's Safeguarding Children and Vulnerable Adults policy. Where relevant, contractors will need to demonstrate that they meet these requirements.
- 9.11 Procurement activity will be treated proportionately to the health and safety risks which arise from the contract. Potential risks will be assessed and contractors must provide evidence to demonstrate that their organisation actively promotes and manages health and safety.

Sustainability

- 9.12 Any procurement decision will aim to minimise harm to the environment and to promote conservation of natural resources.

Forward Planning

- 9.13 Forward Planning, particularly of major expenditure, is essential to maximise the potential savings through efficient and effective procurement.
- 9.13.1 Forward planning will be a key focus within the procurement cycle, particularly within the 'contract management', 'identification of need' and 'analysis of the requirement' stages.
- 9.13.2 Specifications where possible should be output based. Output based specifications will allow greater flexibility of design and support innovation throughout the supply chain.
- 9.14 Planning annual procurement activity in advance will enable the Council to become a more efficient buyer of goods, works and services.

Relationships with Suppliers

- 9.15 Effective procurement is measured by the outcomes and not by the completion of the process.
- 9.15.1 Contracts will be managed throughout their life to ensure that the benefits identified in the business case are delivered. Regular review meetings with incumbent suppliers are crucial in ensuring that set Key Performance Indicators and Service Level Agreements are achieved and maintained.
- 9.15.2 The Council will expand the use of contract management and build on areas of current best practice.
- 9.15.3 Risk registers shall be prepared for all major procurement processes in accordance with the Risk Management Strategy and will be revisited at key milestones in the procurement process and throughout the life of the contract.
- 9.15.4 When suppliers and contractors handle information on behalf of the Council, where possible, we will ensure that equivalent standards are applied or seek to influence our supplier's and contractor's standards.

Data Protection

- 9.16 The Council will expect Contractors to have appropriate information/data handling policies/procedures in place to handle confidential and commercially sensitive information, including personal and sensitive data, to ensure compliance with the Data Protection Act 1998.
- 9.17 The Council will ensure that all relevant Contracts include provisions relating to the ownership and control of any Intellectual Property created for, during and at the end of a contract.

Information Requests

- 9.18 Maldon District Council is a relevant authority for the purpose of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Council will expect that Contractors will support and assist the Council in discharging its obligations in responding to requests for information.

Our Conduct

- 9.19 In all our dealings in the procurement process, the Council will preserve the highest standards of honesty, integrity, impartiality and objectivity and shall comply with the Council's Codes of Conduct at all times.
- 9.20 In selecting contractors the Council will generally evaluate offers received on the basis of the most economically advantageous tender (MEAT) and will take into account, where appropriate, whole life costing seeking an appropriate balance between cost and quality.
- 9.21 In any procurement the Council will ensure that its approach to the market is consistent with these principles.

10 PERFORMANCE MEASURES AND TARGETS

- 10.6 Efficiencies gained through the adoption of procurement best practice when monitoring both our existing and future providers in support of overall Value for Money (VFM) can be redistributed to support long term sustainability of front line services.
- 10.7 Projects are monitored through the monitoring of Business Plan progress. Significant projects and exemptions are reported to members.

APPENDIX C – GLOSSARY OF COMMONLY USED PROCUREMENT TERMS AND ACRONYMS

Best Value: Often defined as ‘value for money’, Best Value is the optimum combination of whole life costs and quality to meet the customer’s requirement.
(Source: Draft Joint note on social issues in purchasing 2005)

Collaboration: In this context, public sector organisations that engage in a joint procurement for works, services or supplies with the intention of obtaining better value for money through economies of scale and reduced tendering costs.

Commissioning: Commissioning is a broad concept and there are many definitions, the following definition from the Audit Commission perhaps best captures the key elements of the commissioning tasks: *“Commissioning is the process of specifying, securing and monitoring services to meet people’s needs at a strategic level.”*

Competitive Tendering: Awarding contracts following a process of obtaining competing tenders.

Contract: A binding agreement between two or more parties that is enforceable in law.

Contract Management: The activities of a buyer before, during and after a contract period to ensure that all parties to the contract fulfil their contractual obligations. An important aspect of this is managing the relationships between all parties in the most effective way so as to ensure the contract meets the optimum combination of cost, time and quality.
(Source: Adapted from CIPS definition in the contracts management Knowledge Summary)

E-Procurement: is the ability to purchase/sell through electronic trading via the Internet.

Evaluation: A detailed assessment and comparison of offers made by the Council in accordance with published criteria of responses to a request for quotations or tenders.

Framework Agreement: A framework agreement is a general term for agreements with suppliers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement.

Invitation to Tender (ITT): A formal document inviting an organisation to tender to provide services or, supply goods to or carry out works for the Council. It will include the instructions for submitting a tender, the specification for the requirement, the criteria against which the tender will be assessed, the proposed terms and conditions for the contract and, sometimes, a business questionnaire.

Key Performance Indicator (KPI): KPIs are placed against certain elements of a contract or SLA and indicate the items that are to be measured to see if the contractor has achieved the required contract standard.

MEAT: Most Economically Advantageous Tender.

Method Statement: A document used in the invitation to quote or to tender which sets out specific questions for the bidder to answer to explain to the Council how a service is to be delivered/works to be carried out. It will be evaluated and form a part of the contract.

Official Journal of the European Union (OJEU): The on-line publication in which notices advertising a Council tenders that fall within the EU thresholds must be placed at the start and end of all the procurement.

Pre-Qualification Questionnaire (PQQ): A document asking the tenderer to provide information about his/her business and experience. Most commonly used in EU level procurements.

Procurement: Often used interchangeably with Purchasing. Procurement is the totality of acquisition starting from the identification of a requirement to the disposal of that requirement at the end of its life. It therefore includes pre-contract activities e.g. sourcing and post contract activities e.g. contract management, supplier relationship management activities. Procurement generally relates to goods, works and service(s) requirements.

Public Procurement Directives: The EU procurement Directives set out the legal framework for public procurement. They apply when public authorities and utilities seek to acquire goods, services, and works. They set out procedures which must be followed before awarding a contract when its value exceeds set thresholds.

Quotation: An offer by a supplier to supply goods or services or to carry out works requested either orally or in writing.

Regulations: The Public Contracts Regulations 2006 that implement the various EU Procurement Directives

Risk Management: Involves three key activities, risk analysis, risk assessment, and risk mitigation, all of which facilitate the taking of decisions and actions to control risk appropriately by providing a disciplined and objective approach.

(Source: www.cips.org Knowledge Summary on risk management)

SME: In this context Small and Medium Enterprises (businesses).

Specification/Statement of Requirements: A description of the requirements for the service or of the service to be provided.

Supplier Relationship Management: (SRM) is the discipline of strategically planning for, and managing all interactions with contractors that supply goods and/or services in order to increase the value of those interactions. In practice, SRM entails creating closer, more collaborative relationships with key suppliers in order to uncover new value and reduce risk.

Tender: The offer submitted by the tenderer in response to the Invitation to Tender.

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MALDON DISTRICT COUNCIL

Contract Procedure Rules

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All costs stated in these contract procedure rules are exclusive of VAT, Staff **costs** and fees. Terms appearing in the definitions appendix are ***italicised***.

A BRIEF GUIDE TO CONTRACT PROCEDURE RULES

These contract procedure rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability and deter corruption. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

Officers responsible for purchasing or disposal must comply with these contract procedure rules when undertaking Procurement on behalf of the Council. Council employees and third party service providers have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Monitoring Officer.

These rules apply to all relevant contracts.

These rules apply to Officers and Members.

~~They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract. (For example, if Rule 8.1 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations in writing or tender submissions. Equally, it may not always be appropriate to make use of an exemption under Rule 3 even if one might apply or be granted.)~~

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy.

- Follow the rules if you purchase goods or services or order building work.
- Take all necessary legal, financial and professional advice.
- Declare any personal financial interest in a contract. Corruption is a criminal offence.
- Conduct any *Best Value* review and appraise the purchasing need.
- Check whether there is an existing *Corporate Contract* you can make use of before undergoing a competitive process.
- Normally allow at least four weeks for submission of bids (not to be submitted by fax or e-mail).
- Keep bids confidential.
- Complete a written contract or council order before the supply or works begin.
- Identify a contract manager with responsibility for ensuring the contract delivers as intended.
- Keep records of dealings with suppliers.
- Assess each contract afterwards to see how well it met the purchasing need and *Value for Money* requirements.

In accordance with the *Constitution*, the *Director of Resources* shall have the power to make amendments from time to time to these contract procedure rules after consultation with the Solicitor/Monitoring Officer.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

All purchasing and disposal procedures must:

- ~~Achieve *Best Value* for public money spent~~ Ensure value for money and propriety in spending of public money; be consistent with the highest standards of integrity
- ~~Be consistent with the highest standards of integrity~~
- ~~Ensure fairness in allocating public contracts~~
- ~~Comply with all legal requirements~~ consider all necessary procurement, legal, financial and professional advice
- Comply with all legal requirements and these rules
- Ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant procurement activity
- Consider and incorporate necessary health and safety, inclusion and diversity, and safeguarding children and vulnerable adults requirements.
- Not be influenced by Non-Commerical considerations other than those permitted by law.
- Comply with the Council's Procurement Strategy.
- ~~Ensure that *Non-commercial Considerations* do not influence any *Contracting Decision*~~
- Support the council's corporate and departmental objectives, plan aims and policies
- ~~Comply with the council's corporate *Procurement Strategy* and competition policy.~~

2. OFFICER RESPONSIBILITIES

2.1 Officers

2.1.1 *Officers* responsible for purchasing or disposal must comply with these contract procedure rules, *Financial Regulations*, the Code of Conduct and with all UK and European Union binding legal requirements. *Officers* must ensure that any *Agents*, *Consultants* and contractual partners acting on their behalf also comply.

All officers should undertake procurement in a manner which avoids any potential conflicts of interest.

2.1.2 *Officers* must:

- *Obtain all appropriate authorisations and check that appropriate budget provisions exist before procurement*
- Have regard to the guidance in the *Purchasing Guidance*
- Check whether a suitable *Corporate Contract* exists before seeking to let another contract; where a suitable *Corporate Contract* exists, this must be

used unless there is an auditable reason not to keep the records required by Rule 6

- Take all necessary legal, financial and professional advice.

2.1.3 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, *Officers* must ensure that the Transfer of Undertaking (Protection of Employment) (*TUPE*) issues are considered and obtain legal advice before proceeding with inviting *Tenders* or *Quotations*.

2.2 Directors

2.2.1 *Directors* must:

- Ensure that their staff comply with Rule 2.1 Keep registers of: Contracts Completed by signature, rather than by the council's seal (see Rule 16.3)
- Arrange their safekeeping on council premises exemptions recorded under Rule 3.2.
- Ensure that where exemptions are obtained under section 3 that they are recorded and stored.

3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

- 3.1 The council has the power to waive any requirements within these contract procedure rules for specific projects.
- 3.2 Where a proposed contract is likely to exceed the European Union (*EU*) *Threshold*, *Directors* have no delegated powers and the matter has to be determined by the council (see Rule 3.1). No exemption can be used if the EU Procedure applies or if the Total Value exceeds £24,999.
- 3.3 Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to council services, the *Officer* and the *Director of Resources* may jointly approve the exemption but they must prepare a report for the next Finance and Corporate Services Committee to support the action taken.
- 3.4 All exemptions, and the reasons for them, must be recorded using the form in the *Purchasing Guidance*. Exemptions shall be signed by the *Officer* and countersigned by the *Director of Resources* and where appropriate the Chairman of the Finance & Corporate Services Committee.
- 3.5 The *Director of Resources* must be consulted prior to commencing any procurement process using Office of Government Commerce (OGC) Buying Solutions Contracts. The terms and conditions of contract applicable to any OGC arrangement, including the requirement to undertake competition between providers, must be fully complied with.
- 3.6 *Financial Officers* must monitor the use of all exemptions.
- 3.7 In order to secure *Value for Money*, the authority may enter into collaborative procurement arrangements. The *Officer* must consult the *Director of Resources* and the Solicitor/Monitoring Officer where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
- 3.7.1 All purchases made via a local authority purchasing consortium are deemed to comply with these contract procedure rules and no exemption is required. However, purchases above the *EU Threshold* must be let under the *EU Procedure*, unless the consortium has satisfied this requirement already by letting their contract in accordance with the *EU Procedures* on behalf of the authority and other consortium members.
- 3.7.2 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, will be deemed to comply with these contract procedure rules and no exemption is required. However, advice must be sought from the *Resources Directorate*.
- 3.8 The use of e-procurement technology does not negate the requirement to comply with all elements of these contract procurement rules, particularly those relating to competition and *Value for Money*.

4. RELEVANT VANT CONTRACTS

4.1 All *Relevant Contracts* must comply with these contract procedure rules. A *Relevant Contract* is any arrangement made by, or on behalf of, the authority for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- The supply or disposal of goods;
- The hire, rental or lease of goods or equipment;
- The delivery of services, including (but not limited to) those related to:
 - The recruitment of staff
 - Land and property transactions
 - Financial and Consultancy Services

4.2 **Relevant Contracts do not include:**

- Contracts of employment which make an individual a direct employee of the authority, or
- Agreements regarding the acquisition, disposal, or transfer of land (for which *Financial Regulations* shall apply).

4.3 CONTRACT VALUE CALCULATION

Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire contract period including any extensions of the contract.

Where the contract term without fixed length the estimated value of the contract should be calculated by monthly value of spend multiplied by 48 in accordance with Regulation 8 of the EU regulations.

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules or English Law.

Where a framework agreement is planned the contract value must be calculated to include the total value of all of the individual contract arrangements envisaged under the Framework Agreement.

4.4 EXTENSIONS AND VARIATIONS

Contracts may only be extended or varied if all of the following conditions have been met - the extension or variation is in accordance with the terms and conditions of the existing contract;

the contract has not been extended before the extension or variation has an approved budget allocation;

For advice regarding acceptance thresholds for contract extensions and variations please contact the Director of Resources.

SECTION 2: COMMON REQUIREMENTS

5. STEPS PRIOR TO PURCHASE

- 5.1 The *Officer* must appraise the purchase, in a manner commensurate with its complexity and value and taking into account any guidance in the *Purchasing Guidance*, by:
- Taking into account the requirements from any relevant *Best Value* review appraising the need for the expenditure and its priority defining the objectives of the purchase.
 - Assessing the risks associated with the purchase and how to manage them considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
 - Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring.
 - Drafting the terms and conditions that are to apply to the proposed contract setting out these matters in writing if the *Total Value* of the purchase exceeds £50,000
- 5.2 **And by confirming that:**
- There is Council or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the *Constitution*

6. RECORDS (ACQUISITIONS AND DISPOSALS)

- 6.1 Where the *Total Value* is **greater than £500 but** less than £50,000, the following records must be kept:
- Invitations to quote and *Quotations*;
 - A record:
 - of any exemptions and the reasons for them;
 - of the reason if the lowest price is not accepted.
 - Written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced.
- 6.2 **Where the *Total Value* exceeds £50,000 the *Officer* must record:**
- The method for obtaining bids (see Rule 8.1);
 - Any *Contracting Decision* and the reasons for it;
 - Any exemption under Rule 3 together with the reasons for it;
 - The *Award Criteria* in descending order of importance;
 - *Tender* documents sent to and received from *Candidates*;
 - Pre-tender market research;
 - Clarification and post-tender negotiation (to include minutes of meetings);
 - The contract documents;
 - Post-contract evaluation and monitoring;
 - Communications with *Candidates* and with the successful contractor throughout the period of the contract.

- 6.3 Records required by this rule must be kept for six years after the end of the contract. However, written documents which relate to unsuccessful *Candidates* may be electronically scanned or stored by some other suitable method after 12 months from award of contract, provided there is no dispute about the award.

7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS

7.1 Identifying and Assessing Potential Candidates

- 7.1.1 *Officers* shall ensure that, where proposed contracts, irrespective of their *Total Value*, might be of interest to potential *Candidates* located in other member states of the EU, a sufficiently accessible advertisement is published.
- 7.1.2 Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:
- The council's website
 - Portal websites specifically created for contract advertisements (all contracts with a Total Value exceeding £24,999 must be advertised on the Contracts Finder website)
 - National official journals,
- or
- The Official Journal of the European Union (OJEU) / Tenders Electronic Daily (TED) (even if there is no requirement within the *EU Procedure*).
- 7.1.3 *Officers* are responsible for ensuring that all *Candidates* for a *Relevant Contract* are suitably assessed. The assessment process shall establish that the potential *Candidates* have sound:
- Economic and financial standing;
 - Technical ability and capacity to fulfil the requirements of the authority.

~~7.2 Approved Lists (for contracts with a Total value not exceeding £24,999)~~

~~7.2.1 Approved Lists should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Approved Lists cannot be used where the EU Procedure applies.~~

~~7.2.2 Directors may draw up in consultation with the Resources Directorate:~~

- ~~• Approved Lists of persons ready to perform contracts to supply goods or services of particular types including without limitation on the basis of agreed contract terms criteria for Short-listing from the lists.~~

~~7.2.3 No person may be entered on an Approved List until there has been an adequate investigation into both their financial and their technical ability to perform the contract, unless such matters will be investigated each time bids are invited from that list.~~

~~7.2.4 Approved Lists must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure the widest publicity among relevant suppliers throughout all member states of the EU. Persons may be~~

~~entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 7.2.3 are met.~~

~~7.2.5 The list and *Short-listing* criteria must be reviewed at least annually and re-advertised at least every three years. On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to reapply. Review means:~~

~~The re-assessment of the financial and technical ability and performance of those persons on the list, unless such matters will be investigated each time bids are invited from that list;~~

~~The deletion of those persons no longer qualified, with a written record kept justifying the deletion.~~

~~7.2.6 All *Approved Lists* shall be maintained in an open, fair and transparent manner and be open to public inspection.~~

~~7.2.7 A register of pre-qualified contractors and *Consultants* maintained by or on behalf of central government (e.g. *Construction line*) will be deemed to be an *Approved List* for the purpose of these contract procedure rules and shall not be subject to the requirements of Rules 7.2.2 to 7.2.6 inclusive.~~

7.3 Framework Agreements

7.3.1 The term of a *Framework Agreement* must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.

7.3.2 Contracts based on *Framework Agreements* may be awarded by either:

- applying the terms laid down in the *Framework Agreement* (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
- where the terms laid down in the *Framework Agreement* are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
- inviting the organisations within the *Framework Agreement* that are capable of executing the subject of the contract to submit written *Tenders*;
 - fixing a time limit which is sufficiently long to allow *Tenders* for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract;
 - awarding each contract to the tenderer who has submitted the best *Tender* on the basis of the *Award Criteria* set out in the specifications of the *Framework Agreement*.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS

The *Officer* must calculate the *Total Value*.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, *Officers* must seek the advice of the Director of Resources.

8.1 Purchasing – Competition Requirements

8.1.1 Where the *Total Value* for a purchase is within the values in the first column below, the *Award Procedure* in the second column must be followed. *Short-listing* shall be done by the persons specified in the third column.

Total Value	Award Procedure	Short listing
Up to £5,000	At least one and preferably up to three <i>Quotations</i> . (confirmed in writing where the <i>Total Value</i> exceeds £500)	<i>Officer</i>
£5,001 to £24,999	The Receipt of three written <i>Quotations</i> (this requirement may be waived with the written consent of the <i>Director of Resources</i> in consultation with the Chairman of the Finance & Corporate Services Committee).	<i>Officer and Line Manager</i>
£25,000 to £50,000	<i>Quotations</i> sought by advertisement on Contracts Finder	<i>Officer and Line Manager</i>
£50,001 to <i>EU Threshold</i>	<i>Invitation to Tender</i> by advertisement on Contracts Finder	<i>Officer, Line Manager and Director</i>
<i>Above EU Threshold</i>	<i>EU Procedure</i> or, where this does not apply, <i>Invitation to Tender</i> by advertisement on Contracts Finder	Consult the <i>Essex Procurement Hub</i> – see Rule 8.1.4

8.1.2 Where it can be demonstrated that there are insufficient suitably qualified *Candidates* to meet the competition requirement, all suitably qualified *Candidates* must be invited.

8.1.3 An *Officer* must not enter into separate contracts nor select a method of calculating the *Total Value* in order to minimise the application of these contract procedure rules.

8.1.4 Where the *EU Procedure* is required, the *Officer* shall consult the *Essex Procurement Hub* to determine the method of conducting the purchase.

8.2 Assets for Disposal

- 8.2.1 Assets for disposal must be sent to public auction (including electronic auction sites such as eBay) except where better *Value for Money* is likely to be obtained by inviting *Quotations* and *Tenders*. (These may be invited by advertising on the council's internet site.) In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the *Director of Resources*.
- 8.2.2 In the first instance surplus vehicles, plant and equipment should be offered to Parish Council's within the District at a fair price (sold as seen) agreed by the *Director of Resources* in consultation with the relevant *Director*.

8.3 Providing Services to External Purchasers

- 8.3.1 The *Director of Resources* and *Financial Regulations and procedures* must be consulted where contracts to work for organisations other than the authority are contemplated.

8.4 Collaborative and Partnership Arrangements

- 8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these contract procedure rules.
- 8.4.2 If in doubt, *Officers* must seek advice of the *Essex Procurement Hub*.

8.5 The Appointment of Consultants to Provide Services

- 8.5.1 Consultant architects, engineers, surveyors and other professional *Consultants* shall be selected and commissions awarded in accordance with the procedures detailed within these contract procedure rules and as outlined below.

Total Value	Award Procedure	Short listing
Up to £5,000	At least one and preferably up to three <i>Quotations</i> . (confirmed in writing where the <i>Total Value</i> exceeds £500)	<i>Officer</i>
£5,001 to £24,999	The receipt of three written <i>Quotations</i> (This requirement may be waived with the written consent of the <i>Director of Resources</i> in consultation with the Chairman of the Finance and Corporate Services Committee).	<i>Officer and Line Manager</i>
£25,000 to £50,000	<i>Quotations</i> sought by advertisement on Contracts Finder	<i>Officer and Line Manager</i>
£50,001 to EU Threshold	<i>Invitation to Tender</i> by advertisement on Contracts Finder	<i>Officer, Line Manager and Director</i>
Above EU Threshold	<i>EU Procedure</i> or, where this does not apply, <i>Invitation to Tender</i> by advertisement on Contracts Finder	Consult the <i>Essex Procurement Hub</i> – see Rule 8.1.4

- 8.5.2 The engagement of a *Consultant* shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.
- 8.5.3 Records of consultancy appointments shall be maintained in accordance with Rule 6.
- 8.5.4 *Consultants* shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant *Director* for the periods specified in the respective agreement.

9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

- 9.1 The *Officer* responsible for the purchase:
- May consult potential suppliers prior to the issue of the *Invitation to Tender* in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential *Candidate*
 - Must not seek or accept technical advice on the preparation of an *Invitation to Tender* or *Quotation* from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential *Candidates* or distort competition, and should seek advice from the *Essex Procurement Hub*.

10. STANDARDS AND AWARD CRITERIA

- 10.1 The *Officer* must ascertain what are the relevant British, European or international standards which apply to the subject matter of the contract. The *Officer* must include those standards which are necessary properly to describe the required quality. The *Director* must be consulted if it is proposed to use standards other than European standards.
- 10.2 The *Officer* must define *Award Criteria* that are appropriate to the purchase and designed to secure an outcome giving *Value for Money* for the authority. The basic criteria shall be:
- 'Lowest price' where payment is to be made by the authority;
 - 'Highest price' if payment is to be received; or
 - 'Most economically advantageous', where considerations other than price also apply.

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations.

These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

10.3 Award Criteria must not include:

- *Non-commercial Considerations*
- Matters which discriminate against suppliers from the *European Economic Area* or signatories to the *Government Procurement Agreement*.

11. INVITATIONS TO TENDER / QUOTATIONS

11.1 The *Invitation to Tender* shall state that no *Tender* will be considered unless it is received by the date and time stipulated in the *Invitation to Tender*. No *Tender* delivered in contravention of this clause shall be considered.

11.2 All *Invitations to Tender* shall include the following:

- (a) A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers.
- (b) A requirement for tenderers to declare that the *Tender* content, price or any other figure or particulars concerning the *Tender* have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- (c) A requirement for tenderers to complete fully and sign all *Tender* documents including a form of *Tender* and certificates relating to canvassing and non-collusion.
- (d) Notification that *Tenders* are submitted to the council on the basis that they are compiled at the tenderer's expense.
- (e) A description of the *Award Procedure* and, unless defined in a prior advertisement, a definition of the *Award Criteria* in objective terms and if possible in descending order of importance.
- (f) Notification that no *Tender* will be considered unless it is enclosed in a sealed envelope or container which bears the word '*Tender*' followed by the subject to which it relates, but no other name or mark indicating the sender. Proforma *Tender* labels are available from the Committee Services Office. (Refer to TENDERS AND QUOTATIONS – procedure note).
- (g) A stipulation that any *Tenders* submitted by fax or other electronic means shall not be considered with the exception of the Council's electronic tender portal.
- (h) The method by which any arithmetical errors discovered in the submitted *Tenders* is to be dealt with. In particular, whether the overall price prevails over the rates in the *Tender* or vice versa.

11.3 All *Invitations to Tender* or *Quotations* must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 16).

11.4 The *Invitation to Tender* or *Quotation* must state that the council is not bound to accept any *Quotation* or *Tender*.

- 11.5 All *Candidates* invited to *Tender* or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis. For contracts with a *Total Value* exceeding £24,999, documentation will need to be uploaded to Contracts Finder at the time of publishing the notice.

12. SHORTLISTING

- 12.1 Any *Shortlisting* must have regard to the financial and technical standards relevant to the contract and the *Award Criteria*. Special rules apply in respect of the *EU Procedure*.
- 12.2 The officers responsible for *Shortlisting* are specified in Rule 8.1.1.
- 12.3 Where *Approved Lists* are used, *Shortlisting* may be done by the *Officer* in accordance with the *Shortlisting* criteria drawn up when the *Approved List* was compiled (see Rule 7.2.2). However, where the *EU Procedure* applies, *Approved Lists* may not be used.

13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS

- 13.1 *Candidates* must be given an adequate period in which to prepare and submit a proper *Quotation* or *Tender*, consistent with the complexity of the contract requirement. For contracts with a *Total Value* exceeding £24,999, the minimum term for receipt of tenders or quotations from the date advertised is 35 calendar days. The *EU Procedure* lays down specific time periods (see guidance in the *Purchasing Guidance*).
- 13.2 All *Tenders* must be returned to the *Director of Resources*.
- 13.3 *Tenders* received by fax or other electronic means (e.g. email) must be rejected, unless they have been sought in accordance with an electronic tendering system approved by the *Director of Resources*.
- 13.4 The *Officer* must not disclose the names of *Candidates* to any staff involved in the receipt, custody or opening of *Tenders*.
- 13.5 The *Director of Resources* shall be responsible for the safekeeping of *Tenders* until the appointed time of opening. Each *Tender* must be: Suitably recorded so as to subsequently verify the date and precise time it was received adequately protected immediately on receipt to guard against amendment of its contents recorded immediately on receipt in the *Tender Record Log*.
- 13.6 The *Director of Resources* must ensure that all *Tenders* are opened at the same time when the period for their submission has ended. Members will be made aware of the opening arrangements should they wish to observe the process. The *Officer* or his or her representative must be present. *Tenders* must be opened in the presence of two officers representing the *Director of Resources*, neither of whom can be the *Officer*. Where the *Total Value* is more than the *EU Threshold*, one must be the *Director of Resources* or Officer designated by the *Director of Resources*.
- 13.7 Upon opening, a summary of the main terms of each *Tender* (i.e. significant issues that are unique to each *Tender* submission and were not stated in the *Tender* invitation documents such as *Tender* sum, construction period, etc.) must be recorded in the *Tender Record Log*. The summary must be initialled on behalf of the *Director of Resources*.

14. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

- 14.1 Providing clarification of an *Invitation to Tender* to potential or actual *Candidates* or seeking clarification of a *Tender*, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a *Tender* and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an *EU Procedure* where this might distort competition, especially with regard to price.
- 14.2 If post-tender negotiations are necessary after a single-stage *Tender* or after the second stage of a two-stage *Tender*, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best *Tender* and after all unsuccessful *Candidates* have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the *Tender* documents. *Officers* appointed by the relevant Director to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 14.3 Post-tender negotiation must only be conducted in accordance with the guidance issued by the Solicitor who, together with the *Director of Resources*, must be consulted wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by a team of at least two *Officers*, one of whom must be from a *service* independent to that leading the negotiations.
- 14.4 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

15. EVALUATION, AWARD OF CONTRACT, & DEBRIEFING CANDIDATES

- 15.1 Apart from the debriefing required or permitted by these contract procedure rules, the confidentiality of *Quotations*, *Tenders* and the identity of *Candidates* must be preserved at all times and information about one *Candidate's* response must not be given to another *Candidate*.
- 15.2 Contracts must be evaluated and awarded in accordance with the *Award Criteria*. During this process, *Officers* shall ensure that submitted *Tender* prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 15.3 The arithmetic in compliant *Tenders* must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their *Tender*. Alternatively, if the rates in the *Tender*, rather than the overall price, were stated within the *Tender* invitation as being dominant, an amended *Tender* price may be requested to accord with the rates given by the tenderer.
- 15.4 *Officers* may accept *Quotations* and *Tenders* received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these contract procedure rules and, in respect of proposed contracts that are

expected to exceed £250,000, the approval of the relevant Committee has been secured.

- 15.5 For tenders up to the EU threshold it is best practice to inform all tenderers of the intention to award and give unsuccessful tenderers an opportunity to request feedback on their submission.
- 15.6 The *Officer* shall debrief in writing all those *Candidates* who submitted a bid about the characteristics and relative advantages of the leading bidder. No information, other than the following, should be given without taking the advice of the Solicitor:
1. How the *Award Criteria* were applied
 2. The prices or range of prices submitted, in either case not correlated to
 3. *Candidates'* names
 4. The names of *Candidates* where there were three or more *Candidates*.
- 15.7 If a *Candidate* requests in writing the reasons for a *Contracting Decision*, the *Officer* must give the reasons in writing within 15 days of the request. If requested, the *Officer* may also give the debriefing information at Rule 15.6 above to *Candidates* who were deselected in a pre-tender *Shortlisting* process.

SECTION 4: CONTRACT AND OTHER FORMALITIES

16. CONTRACT DOCUMENTS

16.1 Relevant Contracts

16.1.1 All *Relevant Contracts* that exceed £50,000 shall be in writing.

16.1.2 All *Relevant Contracts*, irrespective of value, shall clearly specify:

- what is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- the provisions for payment (i.e. the price to be paid and when);
- the time, or times, within which the contract is to be performed;
- the provisions for the council to terminate the contract.

16.1.3 The council's order form (electronic order system) or standard terms and conditions issued by a relevant professional body must be used wherever possible.

16.1.4 In addition, every *Relevant Contract* of purchase over £50,000 must also state clearly as a minimum:

- that the contractor may not assign or sub-contract without prior written consent;
- any insurance requirements;
- health and safety requirements;
- ombudsman requirements;
- data protection requirements, if relevant;
- that charter standards are to be met if relevant;
- race relations requirements;
- Disability Discrimination Act requirements;
- Freedom of Information Act requirements;
- where *Agents* are used to let contracts, that *Agents* must comply with the council's contract procedure rules;
- a right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.

16.1.5 The formal advice of the Solicitor must be sought for the following contracts:

- where the Total Value exceeds EU Threshold;
- those involving leasing arrangements;
- where it is proposed to use a supplier's own terms;
- those involving the purchase of application software with a Total Value of more than £50,000;
- those that are complex in any other way.

16.2 Contract Formalities

16.2.1 Agreements (Contracts and Orders) shall be completed as follows:

Total Value	Method of Completion	By
Up to £5,000	Electronic order	<i>Authorised buyer</i> (see Rule 16.2.3)
£5,001 to £50,000	Electronic order	<i>Authorised Buyer</i> approved by <i>Line Manager</i> (see Rule 16.2.3)
Above £50,001	Signature on written contract	<i>Director or Head of Paid Service</i> (see Rule 16.2.3)

16.2.2 All contracts must be concluded in writing or by email before the supply, service or construction work begins.

16.2.3 The *Officer* responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

16.2.4 All contract documents must be placed in the central repository in accordance with *Financial Regulations*.

16.3 Sealing

16.3.1 Where contracts are completed by each side adding their formal seal, such contracts shall be signed in accordance with the Council's Standing Orders (*Chief Executive* or Deputy and a *Member*).

16.3.2 Every council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

16.3.3 A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end;
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services.

17. BONDS AND PARENT COMPANY GUARANTEES

- 17.1 The *Officer* must consult the *Director of Resources* about whether a *Parent Company Guarantee* is necessary when a *Candidate* is a subsidiary of a parent company and:
- the *Total Value* exceeds £250,000; or
 - award is based on evaluation of the parent company; or
 - there is some concern about the stability of the *Candidate*.
- 17.2 The *Officer* must consult the *Director of Resources* about whether a *Bond* is needed:
- where the *Total Value* exceeds £250,000, or
 - where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the *Candidate*.

18. PREVENTION OF CORRUPTION

- 18.1 The *Officer* must comply with the *Code of Conduct* and must not invite or accept any gift or reward in respect of the award or performance of any contract. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 18.2 below.
- 18.2 The following clause **must** be put in every written Council contract:
- “The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things:*
- (a) *offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done), or*
 - (b) *commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or*
 - (c) *commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. Any clause limiting the Contractor’s liability shall not apply to this clause.”*

19. DECLARATION OF INTERESTS

- 19.1 If it comes to the knowledge of a member or an employee of the authority that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the *Chief Executive*. The *Chief Executive* shall report such declarations to the appropriate *Committee*.
- 19.2 Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a contract to which the member or employee is directly a party.

- 19.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this standing order.
- 19.4 The *Monitoring Officer* shall maintain a record of all declarations of interests notified by members and *Officers*.
- 19.5 The *Chief Executive* shall ensure that the attention of all members is drawn to the National Code of Local Government Conduct.

SECTION 5: CONTRACT MANAGEMENT

20. MANAGING CONTRACTS

- 20.1 *Directors* in sponsoring departments are to name contract managers for all new contracts. All contracts must have a named council contract manager for the entirety of the contract.
- 20.2 Contract Managers must follow the procedures set out in the council's *Purchasing Guidance*.

21. RISK ASSESSMENT AND CONTINGENCY PLANNING

- 21.1 A business case must be prepared for all procurements with a potential value over the *EU Threshold*. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 21.2 For all contracts with a value of over £50,000, contract managers must:
- maintain a risk register during the contract period;
 - undertake appropriate risk assessments and for identified risks;
 - ensure contingency measures are in place.

22. CONTRACT MONITORING, EVALUATION AND REVIEW

- 22.1 All contracts which have a value higher than the *EU Threshold* limits, or which are *High Risk*, are to be subject to monthly formal review with the contractor. The review may be conducted quarterly if permitted by the *Director of Resources*.
- 22.2 For all contracts with a value higher than the *EU Threshold* limits, or which are *High Risk*, an annual report must be submitted to the relevant Committee.
- 22.3 The Council's approved *project management methodology* must be applied to all contracts deemed to be *High Risk*, *High Value*, or *High Profile*.
- 22.4 During the life of the contract, the *Officer* must monitor in respect of:
- performance;

- compliance with specification and contract cost;
- any *Value for Money* requirements;
- user satisfaction and risk management.

22.5 Where the *Total Value* of the contract exceeds £250,000, the *Officer* must make a written report to the relevant Committee evaluating the extent to which the purchasing need and the contract objectives (as determined in accordance with Rule 5.2) were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

DEFINITIONS APPENDIX

Agent	A person or organisation acting on behalf of the council or on behalf of another organisation.
Approved Buyer	<i>Officer</i> Designated by a <i>Director</i> who is authorised to generate electronic orders on behalf of the Council.
Approved List	A list drawn up in accordance with Rule 7.2.
Award Criteria	The criteria by which the successful <i>Quotation</i> or <i>Tender</i> is to be selected (see further Rules 10 and 11.2e).
Award Procedure	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the council. This terminology has now in many instances been superseded by <i>Value for Money</i> .
Bond	An insurance policy: if the contractor does not do what it has promised under a contract with the council, the council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the council against a level of cost arising from the contractor's failure.
Candidate	Any person who asks or is invited to submit a <i>Quotation</i> or <i>Tender</i> .
Chief Executive	The Council's <i>Head of Paid Service</i> has defined in the <i>Constitution</i> .
Chief Finance Officer	The Officer Designated Chief Finance Officer (Section 151 Officer) by the Council.
Code of Conduct	The code regulating conduct of <i>Officers</i> issued by the <i>Chief Executive</i> .
Committee	A Committee which has power to make decisions for the Council, for example a joint Committee with another local authority, but not the scrutiny Committee.
Commissioning & Procurement Strategy	The document setting out the council's approach to commissioning and procurement, setting out key priorities for the next few years.
Constitution	The constitutional document approved by the council which: <ul style="list-style-type: none"> • allocates powers and responsibility within the council and between it and others; • delegates authority to act to the <i>Committees</i>, and

Officers;

- regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.

Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the council has no ready access to employees with the skills, experience or capacity to undertake the work.
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> • composition of <i>Approved Lists</i>; • withdrawal of <i>Invitation to Tender</i>; • whom to invite to submit a <i>Quotation</i> or <i>Tender</i>; • <i>Shortlisting</i>; • award of contract; • any decision to terminate a contract.
Corporate Contract	A contract let by the <i>Council</i> to support the council's aim of achieving <i>Value for Money</i> .
Director	One of three Directors responsible for operational delivery of services and designated as such in the <i>constitution</i>
Director of Resources	Director responsible for financial and procurement activities and internal audit
Essex Procurement Hub	The council's central procurement partner charged with providing strategic direction and advice to secure <i>Value for Money</i> in the Council's procurement activities. The hub also has EU regulations legal expertise.
EU Procedure	The procedure required by the EU where the <i>Total Value</i> exceeds the <i>EU Threshold</i> .
EU Threshold	The contract value at which the EU public procurement directives apply.
European Economic Area	The 27 of the 28 members of the European Union, and Norway, Iceland and Liechtenstein.
Financial Officer	The most senior <i>Officer</i> representing the <i>Director of Resources</i> or designated by him/her to provide financial advice to the <i>Director</i> .
Financial Regulations and procedures	The financial regulations and procedures outlining <i>Officer</i> responsibilities for financial matters issued by the <i>Chief Finance Officer</i> in accordance with the <i>Constitution</i> .

Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the <i>European Economic Area</i> are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
Head of Paid Service	The Council's <i>Chief Executive</i> .
High Profile	A high-profile purchase is one that could have an impact on functions integral to council service delivery should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the <i>EU Threshold</i> values.
Invitation to Tender	Invitation to tender documents in the form required by these contract procedure rules.
Key Decision	Decisions that are defined as key decisions in the <i>Constitution</i> .
Line Manager	An <i>Officer</i> designated by a <i>Director</i> to exercise the role reserved to the Line Manager by the contract procedure rules, this will be a Level 2 Manager (i.e. managers that report directly to a Director).
Members	Persons currently elected to serve on the Council
Monitoring Officer	The <i>Officer</i> defined as such in the <i>Constitution</i>
Nominated Suppliers and Sub-contractors	Those persons specified in a main contract for the discharge of any part of that contract.

Non-commercial Considerations	<p>a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').</p> <p>b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.</p> <p>c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.</p> <p>d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').</p> <p>e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.</p> <p>f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.</p> <p>g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.</p> <p>h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings. (Protection of Employment) Regulations 1981 (TUPE) may apply.</p>
Officer	The Officer designated by the Director to deal with the contract in question.
Parent Company Guarantee	<p>A contract which binds the parent of a subsidiary company as follows:</p> <ul style="list-style-type: none"> • if the subsidiary company fails to do what it has promised under a contract with the council, the council can require the parent company to do so instead.
Priority Services	Those services required to be tendered as defined in the EU public procurement directives.
Procurement Strategy	The document setting out the council's approach to procurement and key priorities for the next few years.
Project	The process set up by the Council to ensure that a project is

Management Methodology	executed in a disciplined and structured manor
Purchasing Guidance	The suite of guidance documents, together with a number of standard documents and forms, which supports the implementation of these Contract Procedure Rules. The guidance is available on the council's intranet.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an <i>Invitation to Tender</i>).
Relevant Contract	Contracts to which these contract procedure rules apply (see Rule 4).
Resources Directorate	The directorate of the Council that includes responsibility for discharging the Council's procurement responsibilities
Service	The services provided by the Council are currently broken down into three directorates, each under the responsibility of a <i>Director</i> .
Short-listing	The process of selecting <i>Candidates</i> who are to be invited to quote or bid or to proceed to final evaluation.
Solicitor	Any Solicitor designated by the Council's Chief Executive or the Monitoring Officer.
Standing Orders	Part of the Council's <i>Constitution</i> specifying rules for how business shall be conducted.
Supervising Officer	The <i>Line Manager's</i> immediate superior.
Tender	A <i>Candidate's</i> proposal submitted in response to an <i>Invitation to Tender</i> .
Tender Record Log	The log kept by the <i>Director of Resources</i> to record details of <i>Tenders</i> (see Rule 13.5).
Total Value	The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows: <ul style="list-style-type: none"> (a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period. (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months. (c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48. (d) for feasibility studies, the value of the scheme or

contracts which may be awarded as a result.

(e) for *Nominated Suppliers and Sub-contractors*, the total value shall be the value of that part of the main contract to be fulfilled by the *Nominated Supplier or Sub-contractor*.

TUPE
(Transfer of Undertakings
(Protection of Employment)
Regulations 2006)
(SI 2006 No.246)

Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

Value for Money

Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

Amendments to the Treasury Management Strategy

- 1.1 The Treasury Management Strategy Statement and Annual Investments Strategy 2017/18 was presented to Council on 16 February 2017.
- 1.2 The Council are looking to become more commercial and maximise investment return where satisfactory results of due diligence are found and risk mitigated. Therefore changes are required to be made to the strategy to allow the Council to further explore alternative areas for investment.
- 1.3 The Commercial Strategy will be presented to Full Council in December and under which the Council may wish to invest in income generating projects utilising the advantageous borrowing rates provided by the Public Works Loans Board. We have therefore reviewed the Operational and Authorised Borrowing Limit Prudential Indicators.
- 1.4 Proposed changes (the numbers refer to the relevant paragraph in the approved strategy) :-

i) INSERTED

4.7 Borrowing Indicators

4.7.1 Council are required to approve two prudential indicators for External Debt. The Authorised Limit and Operational Limit for borrowing.

4.7.2 The Authorised limit is the maximum amount of borrowing that the Authority is allowed to reach and should not be breached. This includes a head room over the Operational limit to allow for cashflow issues, and unexpected breaches in the operational limit.

4.7.3 The Operational limit is the probable amount of borrowing that is required and should reflect that that is required and affordable on an ongoing basis to the Authority. This will always be lower than the authorised limit.

	2017/18	2018/19
Authorised Borrowing Limit	£10m	£10m
Operational Borrowing Limit	£7m	£7m

5.2.2

ii) AMENDED

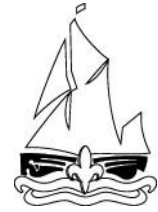
Table 1: Approved Investment Counterparties and Limits

Credit Rating	Banks Unsecured	Banks secured	Government	Corporates	Registered Providers
None	£1m 6 months	n/a	£1m 25 years	£2m (was previously £50k for 5 years)	£1m 5 years

5.4.6 Corporates: Loans, bonds and commercial paper issued by companies other than banks and registered providers. These investments are not subject to bail-in, but are exposed to the risk of the company going insolvent. Loans to unrated companies will only be made following suitable due diligence by the S151 officer. (removed as part of a diversified pool in order to spread the risk widely)

Table 3: Investment Limits

	Cash limit
Loans to unrated corporates	£2m in total (was £1m)
Money Market Funds	£12m in total



REPORT of CHIEF EXECUTIVE

**to
COUNCIL
21 DECEMBER 2017**

MALDON DISTRICT DESIGN GUIDE - ADOPTION AS SUPPLEMENTARY PLANNING DOCUMENT

1. PURPOSE OF THE REPORT

- 1.1 Planning and Licensing Committee approved amendments and additions to the draft Maldon District Design Guide (MDDG) at their meeting on 14 September 2017 and approved the preparation of a final document with a recommendation for adoption as a Supplementary Planning Document by the Council.
- 1.2 The final MDDG has been prepared and is available as a background paper to this report.
- 1.3 For ease of reference, **APPENDIX 1** replicates the table of amendments and additions to the MDDG that were set out in the body of the 14 September 2017 report to the Planning and Licensing Committee (Paragraphs 3.8 and 3.9). Some grammar, punctuation and sentence construction has been amended where it was felt change would improve clarity. The 14 September 2017 report to Planning and Licensing Committee agreed this at Paragraph 3.10. Such changes have not materially changed the MDDG.
- 1.4 As a Supplementary Planning Document, the Maldon District Design Guide will be uploaded to the Council's website.

2. RECOMMENDATION

To seek adoption of the Maldon District Design Guide as a Supplementary Planning Document (SPD) to supplement Policy D1 Design Quality and Built Environment of the Local Development Plan (LDP).

3. SUMMARY OF KEY ISSUES

- 3.1 The LDP was approved by the Secretary of State on 21 July 2017. Policy D1 Design and the Built Environment, Local Development Plan (LDP) is a key policy to deliver the desired design quality throughout the District and a consistent approach to all development proposals. The MDDG sets out design principles and guidance that all development must demonstrate they have had regard to.

- 3.2 The Planning and Licensing Committee considered a report on 14 September 2017 on the response to the consultation draft of the Maldon District Design Guide (Minute No. 444 refers). The Planning and Licensing Committee report, and associated Appendices, contained details of the consultation process and responses, and the consequent amendments and additions to be made to the MDDG.
- 3.3 The Committee resolved that:
- (i) the proposed amendments to the draft Maldon District Design Guide following public consultation be approved;
 - (ii) the Chief Executive be authorised to prepare the final Maldon District Design Guide for adoption as a Supplementary Planning Document by the Council.
- 3.4 As a Supplementary Planning Document the MDDG will be a material planning consideration.

4. CONCLUSION

- 4.1 The MDDG sets out the design considerations and design quality expected in the District for all development proposals and aligns with Policy D1 LDP and the LDP as a whole.

5. IMPACT ON CORPORATE GOALS

- 5.1 The MDDG supports corporate goals and objectives which underpin the Council's vision for the District and in particular protecting and shaping the District and balancing the future needs of the community.

6. IMPLICATIONS

- (i) **Impact on Customers** – All development will be determined in accordance with the Maldon District Design Guide ensuring consistency and delivery of high quality design throughout the District.
- (ii) **Impact on Equalities** – The Maldon District Design Guide sets out design principles and guidance for inclusive development and social cohesion through good design.
- (iii) **Impact on Risk** – The Maldon District Design Guide has been prepared in accordance with the approved Local Development Plan.
- (iv) **Impact on Resources (financial)** – The preparation of the Maldon District Design Guide is in accordance with the costs assigned via the Project Brief approved by Planning and Licensing Committee.
- (v) **Impact on Resources (human)** – Project completed.

- (vi) **Impact on the Environment** – The Maldon District Design Guide will assist the Council in promoting high quality and inclusive design and sustainable development to support new and existing communities and safeguard the character and distinctiveness of the District.

Background Papers:

Final Maldon District Design Guide (December 2017)

Report to Planning and Licensing Committee dated 14 September 2017

Maldon District Local Development Plan, July 2017

Enquiries to:

Jackie Longman, Urban Design Officer, (Tel: 01621 85731).

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**Extract from Planning and Licensing Committee Report 14 September 2017
Agreed Amendments and Additions to draft Maldon District Design Guide (MDDG)**

Amendments:

Paragraph in MDDG	Chapter	Proposed Amendment
Page 2	Foreword	Include Foreword
A01	The Opportunity	Set out Policy D1, LDP.
A04	Key Design Objectives	Add to 'Character' box to read: Enhance identity and sense of place. All design proposals should be informed by a thorough contextual analysis of the built, natural and historic environment and respond to the scale height, density, urban grain, settlement pattern and layout, massing, type, materials, vernacular styles of construction and landscape details of the surrounding area.
A06	Who to talk to	Add Essex County Council as LLFA (Lead Flood Authority) and SuDs Authority to 'initial advice' box. Add Sport England Authority to 'initial advice' box.
B02 (p.10)	Helpful Documents	Add Sport England and Public Health England's Active Design Guidance 2015 to Interactive page. Add Historic England 'Streets for All' to Interactive page.
B02 (p. 11)	Helpful Documents	Add new paragraph to read: Within areas subject of a Strategic Masterplan Framework and/or Strategic Design Code, these documents should form the basis of the design approach. In circumstances where the Maldon District Design Guide is not consistent with these documents, the principles established in the Strategic Masterplan Frameworks or Strategic Design Codes should be considered in the first instance.
B03	Landscape Settlement and Character	Add paragraph 2.7.7 on page 7: 'Several documents are being prepared to provide up to date guidance relating to Green Infrastructure and Landscape. This includes a new Maldon Green Infrastructure Strategy and several area-specific masterplans and design codes where green infrastructure and landscape are central strands. For further details see www.maldon.gov.uk
B04	Locational Characteristics	Amend 'English Heritage' to Historic England. Add 'Further Guidance' box and add Historic England Guidance Documents: Good Practice Advice in Planning 3 – The setting of Heritage

Paragraph in MDDG	Chapter	Proposed Amendment
		<p>Assets; Understanding Place – Historic Areas Assessments.</p> <p>Add VDS and NPs to map on page 15.</p>
B04 03	Riverside and Maritime Settlements	<p>Expand final sentence in first paragraph to read: These settlements have developed either as ports, recreation areas or from plot lands, when large areas of farmland were split up into plots for cheap building land. The settlements have a less defined urban character but are closely linked to the open nature of the surrounding landscapes and where the plot lands form the basis of the settlement seen today especially at St Lawrence, Mayland and North Fambridge.</p>
B05	Site Appraisal	<p>Add to Bullet Point 4 to read: The contribution made by trees or other planting, landscape and biodiversity features within or adjoining the site.</p> <p>Add Bullet Point to read: Consideration of promoting healthy lifestyles in linking to destinations outside of the development by walking and cycling and the types of activities in green corridors and multifunctional open spaces within the development.</p>
B06	Site and setting summary	<p>Add to Bullet Point 3, second box: ‘Areas, buildings and/or structures of historic significance and importance including man-made landmarks and below ground archaeology.’</p>
C02	Using the Sites Features	<p>Change Townscape Checklist Bullet Point 6 to read: The current routes including vehicle highway, cycle and footpath network, Public Rights of Way (PRoW) and Bridleways.</p> <p>Add to end of Bullet Point 6: ‘to promote physical activity’.</p> <p>Add to ‘Further Guidance’ box: ECC Sustainable Urban Drainage Systems Design Guide 2016.</p>
C03	Creating a network of streets, footpaths, cycleways and access arrangements	<p>Add to first paragraph after ‘social interaction’ insert: ‘and to encourage healthy living’.</p> <p>Take out reference in Bullet Point 9 ‘including’ to read: Where appropriate, to consider access to PRoW, Bridleways and potential for multi-user tracks and links.</p> <p>Add to ‘Further Guidance’ box: ECC Developers Guide</p>

Paragraph in MDDG	Chapter	Proposed Amendment
		Sport England and Public Health England Active Design Guidance 2015
C05	Streets where everyone can rest, gather and meet	<p>Add to Bullet Point 1: ‘and supporting facilities for physical activity including seating and cycle parking.’</p> <p>Add Sport England ‘Active Design Guidance 2015’ in ‘Further Guidance’ Box.</p>
C06	Open Spaces	<p>Add to first sentence of text at end: biodiversity and habitat.</p> <p>Change Bullet Point 3 to read: Links with existing spaces to form green routes and networks accessible for all users.</p> <p>Add to start of Bullet Point 6 to read: [Make sure that open space] Within the development, is appropriately defined and enclosed by buildings with windows on the ground floor from habitable rooms overlooking it where appropriate.</p> <p>Add Sport England ‘Active Design Guidance 2015’ in ‘Further Guidance’ Box.</p>
C07	Residential Outdoor Amenity	Bullet Point 6: Add reference to Essex Design Guide to read: Where new development backs on to the rear gardens of existing housing, the distances between buildings are as set out in the Essex Design Guide to a minimum of 25 metres.
C10	Car Parking	Revised wording for Bullet Point 7: Parking in front of dwellings is minimised in existing garden areas so as not to use up the front garden and avoids extensive areas of hard standing and car dominated frontage.
C11	Cycle Parking	Add to first sentence to read: “For cycling to become an alternative to the car, bicycles must be readily accessible with secure parking at home and outdoors. Support facilities for cycle parking are equally important in open space and at community facilities and other service areas in the development.”
C12	Layout and Plot Size	In the opening first paragraph of text add at end of third sentence: ‘and in the Garden Suburbs’.
C21	Future Proofing	<p>Change wording: Bullet Point 6: Shading is ‘considered’ (replaces ‘provided’). Bullet Point 7: ‘The use of green roof systems or green walls is considered...’</p> <p>Add new Bullet Point: Use of tree planting or</p>

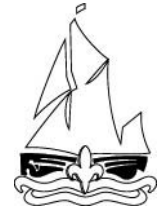
Paragraph in MDDG	Chapter	Proposed Amendment
		<p>changes to land management to provide shading or cooling.</p> <p>Add new Bullet Point: Consider bat or bird roosting or nesting facilities in buildings and grounds.</p> <p>Add in ‘Further Guidance’ box: Energy Efficiency in Historic Buildings; Green Infrastructure and Landscape Technical Document; Biodiversity by Design: A Guide to sustainable Communities TCPA 2004; TCPA/Wildlife Trusts - Planning for a Healthy Environment – Good Practice Guidance for Green Infrastructure Biodiversity, 2012.</p>
Technical Document	Planning and Noise	<p>Add reference to Essex CC’s Minerals and Waste Management Plans at Para. 3.6.</p> <p>Add AGP Acoustics 2015 guidance on Artificial Grass Pitches at Para 3.9.</p>
Technical Document	Assessing Air Quality and Emissions Impacts from Development	<p>Page 9, Add limit of 40µg to Checklist 2, Criteria 1 and 14.</p> <p>Page 11, Reference the updated 2017 IAQM to Classification of Impact Significance</p> <p>Page 12, second paragraph of recommendation: Remove the word ‘LDP’ and replace with ‘All’ to read: All sites will be expected to explore...etc. Remove reference to ‘not an LDP site’ in the ‘Action’ and add ‘mitigations not agreed’ to read: Recommend refusal if mitigations not agreed.</p>
Technical Document	Green Infrastructure and Landscape	<p>Add paragraph 2.7.7 on page 7: ‘Several documents are being prepared to provide up to date guidance relating to Green Infrastructure and Landscape. This includes a new Maldon Green Infrastructure Strategy and several area-specific masterplans and design codes where green infrastructure and landscape are central strands. For further details see www.maldon.gov.uk.</p> <p>Add substantial additional paragraphs in the ‘Biodiversity’ section to incorporate ECC comments in relation to detailed biodiversity enhancements such as wildlife features in buildings, planting and boundary features for nature conservation, lighting mitigation and management.</p>

Paragraph in MDDG	Chapter	Proposed Amendment
		Add additional paragraphs to include references to Sport England & Public Health England's 'Active Design' guidance.
Technical Document	Older Person's Housing	Remove references to Life Time Homes

Additions:

Paragraph in MDDG	Chapter	Proposed Addition
C07	Residential outdoor amenity	Add additional Bullet Point to read: Boundary treatments for secure and private amenity space are considered as a design feature of the scheme and plot layout.
C08	Street Furniture, Lighting and Public Art	Add to first paragraph of text to read: The design and location of street furniture, <u>lighting and public art</u> should be simple, high quality, well designed..... etc. Add new Bullet Point after Bullet Point 6 to read: Public lighting on streets and private lighting in shared space areas or Public Open Space is clearly defined and located at the design stage.
C09	Waste Management and Utilities	Add to Bullet Point 4: Manholes. Add new Bullet Point 5: Consideration is given to the installation or provision of Superfast Broadband. Add 'Further Guidance' box and add Planning and Waste Management.
C12	Layout and Plot Size	Add to Bullet Point 2 at end: 'for all modes of transport'. Add to Bullet Point 3 at end: 'and spaces between buildings'. Add new Bullet Point 8 to read: Lighting is used to create safe inviting routes and spaces but avoids over-lighting. Public lighting on streets and private lighting in shared space areas or Public Open Space is clearly defined and located at the design stage.
C20	Materials and Details	Add additional Bullet Point: Elevational materials are considered alongside hard landscape materials for shared surface streets, car parking, parking courts and public realm.

Paragraph in MDDG	Chapter	Proposed Addition
Technical Document	Green Infrastructure and Landscape	Add reference to Essex CC's and Natural England's Biodiversity considerations.
Technical Document	Planning and Waste Management	New Technical Document to be prepared in-house to expand on C09 Waste Management and Utilities.



REPORT of CHIEF EXECUTIVE

**to
COUNCIL
21 DECEMBER 2017**

COMMITTEE STRUCTURE REVIEW – PROPOSED CONSEQUENTIAL CONSTITUTIONAL CHANGES

1. PURPOSE OF THE REPORT

- 1.1 To receive for approval and adoption a proposed consequential change to the Council's constitutional documentation as a result of a decision taken by the Council at its last meeting.

2. RECOMMENDATION

That the Council approves the proposed change to the Terms of Reference of the Area Planning Committees as set out in **APPENDIX A** to this report.

3. AREA FOR DECISION / ACTION

- 3.1 At the last meeting of the Council, a number of decisions were taken in relation to committee processes. One decision was, in relation to the determination of planning applications, that the 'Parish Trigger' be discontinued and replaced by a revised Member call-in facility. This change impacts on the Terms of Reference of the Area Planning Committees, and the proposed consequential changes are set out in **APPENDIX A** to this report. The changes reflect the shift in emphasis from a Ward Member call-in to a Member call-in linked to groupings of Parishes with Area Planning Committee areas. For Wards within Maldon, Heybridge and Burnham-on-Crouch there is no change.
- 3.2 It is proposed that the particular Term of Reference simply refers the call-in procedure which will be reproduced as an annexe to the Terms of Reference. The procedure includes the notes set out under the existing Term of Reference.
- 3.3 Another decision taken at the last meeting was to introduce mandatory training to all Area Planning Committee members, which means all Members of the Council. It was considered essential for all Members to have up to date knowledge and training for them to be confident in their role as decision makers. Due to the significant responsibility and complexities of planning law it is recommended that a regular programme of mandatory training is delivered to all Members for their roles on the Area Planning Committees.

- 3.4 This decision gives strength and direction to what is included in the Planning Guidance document being separately recommended (by the Planning and Licensing Committee) to the Council for approval and adoption, along with some other associated consequential changes to constitutional documentation.
- 3.5 It was agreed that the mandatory training shall be provided to all Area Planning Committee members no later than the Statutory Annual meeting of the Council in May 2018. The mandatory training Programme will be compiled by the Director of Planning and Regulatory Services in consultation with the Leader and Deputy Leader and Chairman of Planning and Licensing. The programme will be delivered to an agreed timetable which will provide a number of opportunities for members to undertake the required training.

4. IMPACT ON CORPORATE GOALS

- 4.1 The updating of the corporate governance and associated arrangements underpins the decision making processes of the Council, is in part a matter of compliance with the law and is also linked to the Corporate Goal of aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way.

5. IMPLICATIONS

- (i) **Impact on Customers** – It is important that the Council is able openly to explain, through well-presented and user-friendly constitutional documentation, the way in which it is set up and operates, and how it conducts its business. It is important that the Council’s procedures are seen as open and transparent.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – None.
- (iv) **Impact on Resources (financial)** – None.
- (v) **Impact on Resources (human)** – None.
- (vi) **Impact on the Environment** – None.

Background Papers: None.

Enquiries to: Stuart Jennings, Corporate Governance Project Officer (Tel: 01621 875745).

**TERMS OF REFERENCE OF AREA PLANNING COMMITTEES – PROPOSED
CONSTITUTIONAL CHANGES ARISING FROM DECISION OF COUNCIL ON
2 NOVEMBER 2017**

3. Where a Member requests that an application is referred to the Area Committee for determination in accordance with Annexe A.

ANNEXE A

Determination of Planning Applications – Member Call-In

- (i) *The effect of this facility is to enable a Member to request that an application is referred to an Area Planning Committee for determination instead of being determined under powers delegated to the Chief Executive/Director of Planning and Regulatory Services.*

- (ii) *A Member may ‘call in’ an application from their Ward or another Ward within the following areas:*

Central Area Planning Committee:

Call-in area 1 – Maldon North, South, East, West Wards

Call-in area 2 – Heybridge East and West Wards

South-Eastern Area Planning Committee:

Call-in area 1 – Burnham-on-Crouch North and South Wards

Call-in area 2 – Althorne, Mayland, Southminster and Tillingham Wards

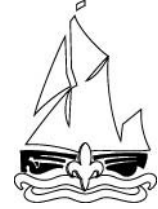
North-Western Area Planning Committee:

Call-in area 1 – Tollesbury, Tolleshunt D’Arcy, Great Totham Wards

Call-in area 2 – Purleigh, Wickham Bishops and Woodham Wards

- (iii) *Requests must be made in writing to the dedicated email address – and within 28 days of the date an application appears on a published Weekly List produced by Planning Services*
- (iv) *A Member must provide a reason to support a call-in request.*
- (v) *A Member is under no obligation to invoke this provision on the basis of any public representation or request he or she may have received, including town or parish council, but may wish to take this into consideration, as he or she may also wish to do when reviewing the request as set out below ;*
- (vi) *Where a Member’s request is the only reason for an application being referred to the Area Committee, the Chief Executive/Director of Planning and Regulatory Services will notify the Member of his recommendation on the application following which the Member may withdraw his or her request.*

- (vii) *Due to the limited time available all responses to Certificates of Lawful Use for Proposed Development and prior notifications, including those in relation to agricultural buildings, telecommunications, hedgerows, trees in conservation areas and demolition are delegated to the Chief Executive/Director of Planning and Regulatory Services unless he considers that they should be referred to the appropriate Area Committee, time permitting.*



REPORT of CHIEF EXECUTIVE

**to
COUNCIL
21 DECEMBER 2017**

INVESTIGATING AND DISCIPLINARY PANEL

1. PURPOSE OF THE REPORT

- 1.1 To receive an update and agree a revision to the constitutional arrangements for the Investigating and Disciplinary Panel (“the Panel”) in terms of the actual membership of the Panel.

2. RECOMMENDATIONS

- (i) That the update be noted and endorsed;
- (ii) that the Council appoints a pool of ten Members (politically balanced) and invites the following Independent Persons to serve on the Investigating and Disciplinary Panel:
- Mr N Hodson and Mr S Anthony
 - Reserve – Ms C Gosling

3. AREA FOR DECISION / ACTION

- 3.1 The Panel was introduced in July 2015 due to a then recent change in the law which meant that the Council had to review its arrangements in relation to the disciplinary process for its statutory officers, namely the Head of Paid Service, the Chief Financial Officer (S151), and the Monitoring Officer. The Council had already put in place an Investigating and Disciplinary Committee with an operating protocol based on the procedures laid down in the Joint Negotiating Committee for Local Authority Chief Executives model.
- 3.2 The recent change in the law affects those situations where arising from that process a conclusion and recommendation of dismissal is the outcome. Before any such recommendation is considered by the Council, it must first be separately looked at by a Panel including at least two Independent Persons appointed to assist with conduct issues under the Localism Act 2011. Under arrangements approved by the Council, the Panel will also include Members who have not been part of the initial investigation carried out by Investigating and Disciplinary Committee. It will then be that Panel’s duty to recommend to the Council on any proposed course of action involving or culminating in dismissal.

- 3.3 The way the change was intended to work in practice was that the membership of the Panel is appointed and therefore in place and ready to act should the situation arise, as there is a fairly short timescale for a meeting of the Panel to be convened.
- 3.4 The membership of the Panel is made up of Councillors and Independent Persons. The Independent Persons have to be invited to be appointed. Both this Council's Independent Person (Mr N Hodson) and reserve Independent Person (Mr S Anthony) have been approached and confirmed their willingness to be appointed. A reserve appointee has been pursued from a list of available Independent Persons operating within Essex, and Ms C Gosling, an Independent Person for Chelmsford City Council, has confirmed her willingness to act as a reserve appointee.
- 3.5 So far as this Council's membership of the Panel is concerned, it is felt that in common with all other Committees and Panels it would be good practice to have in place a nominated membership pool appointed by the Council. This can then be reviewed along with all others at the statutory annual meeting.

4. IMPACT ON CORPORATE GOALS

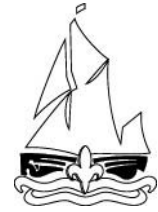
- 4.1 The updating of the corporate governance and associated arrangements underpins the decision making processes of the Council, is in part a matter of compliance with the law and is also linked to the Corporate Goal of aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way.

5. IMPLICATIONS

- (i) **Impact on Customers** – It is important that the Council is able openly to explain, through well-presented and user-friendly constitutional documentation, the way in which it is set up and operates, and how it conducts its business. It is important that the Council's procedures are seen as open and transparent.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – None.
- (iv) **Impact on Resources (financial)** – None.
- (v) **Impact on Resources (human)** – None.
- (vi) **Impact on the Environment** – None.

Background Papers: None.

Enquiries to: Stuart Jennings, Corporate Governance Project Officer (Tel: 01621 875745).



REPORT of CHIEF EXECUTIVE

**to
COUNCIL
21 DECEMBER 2017**

SCHEDULE OF MEETINGS 2018 / 19

1. PURPOSE OF THE REPORT

- 1.1 A draft schedule of meetings for the 2018 / 19 municipal year is presented for the Council's consideration.

2. RECOMMENDATION

That the schedule of meetings for 2018 / 19 attached as **APPENDIX 1** be approved.

3. SUMMARY OF KEY ISSUES

- 3.1 The draft Schedule (**APPENDIX 1**) incorporates dates for all the Committees in the structure agreed by the Council except the Joint Standards, Licensing Sub, Investigating & Disciplinary and Appointments Committees, meetings of which are arranged as and when required.
- 3.2 This has been prepared taking into account the requirements and suggestions of the Corporate Leadership Team and other lead Officers.
- 3.3 **Area Planning Committees**
- 3.3.1 So far as is possible, the Area Planning Committees are on a four-weekly cycle and held on consecutive weeks.
- 3.4 **Extraordinary Council (Planning) meetings**
- 3.4.1 As there is likely to be a continued need during 2018 / 19 to determine applications of 'development of strategic and major interest' this Schedule includes provision for extraordinary meetings of the Council (Council (Planning)) to meet this requirement. It should be noted that these meeting are *provisional* dates and the final dates and times will be provided nearer the time.

3.5 **Recess**

3.5.1 Save for the need to continue the cycle of Area Planning Committees, there is a three week recess in August, a two week recess Christmas and one week at Easter for non-planning meetings. These recess' have been planned to fall during school holiday dates as advertised by Essex County Council.

3.6 **Quarterly Performance Reporting**

3.6.1 Provision has been made within the Schedule for quarterly reporting to Committees.

4. **CONCLUSION**

4.1 It is considered that the schedule attached as **APPENDIX 1** represents a framework for meetings of the Council and its Committees.

5. **IMPACT ON CORPORATE GOALS**

5.1 An efficient and effective committee structure underpins the timely delivery of the corporate goals.

6. **IMPLICATIONS**

- (i) **Impact on Customers** – None, provided that an adequate framework is in place for the Council and its Committees to operate and transact business.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – None.
- (iv) **Impact on Financial (Resources and Human)** – None, unless linked to any particular requirements resulting from the operation of the Overview and Scrutiny Committee.
- (v) **Impact on the Environment** – None.

Background Papers: None.

Enquiries to: Tara Bird, Committee Services Supervisor, (Tel: 01621 875791).

SCHEDULE OF MEETINGS 2018 / 19

KEY:

AUDITAudit Committee
 CACCentral Area Planning Committee
 CMTYCommunity Services Committee

F&CSFinance and Corporate Services Committee
 NW.....North Western Area Planning Committee
 O&SOverview & Scrutiny Committee

P&L.....Planning and Licensing Committee
 SE..... South Eastern Area Planning Committee
 STNDSJoint Standards Committee

Monday	7	BANK HOLIDAY	11	NW	16	SE	20		24
Tuesday	8		12	F&CS Q4	17		21		25
Wednesday	9		13		18	O&S	22	CAC	26
Thursday	10	STAT COUNCIL	14		19	P&L	23		27
Friday	11		15		20		24		28
Monday	14	NW	18	SE	23		27	BANK HOLIDAY	1
Tuesday	15		19		24		28	CMTY Q1	2
Wednesday	16		20		25	CAC	29	O&S Q1	3
Thursday	17	COUNCIL (Planning)	21		26	AUDIT	30		4
Friday	18		22		27		31		5
Monday	21	SE	25		30		3	NW	8
Tuesday	22	CMTY Q4	26		31	F&CS	4		9
Wednesday	23		27	CAC	1		5		10
Thursday	24		28	COUNCIL	2		6	P&L Q1	11
Friday	25		29		3		7		12
Monday	28	BANK HOLIDAY	2		6	NW	10	SE	15
Tuesday	29		3		7		11		16
Wednesday	30	CAC	4		8		12		17
Thursday	31	STNDS	5	COUNCIL (Planning)	9	COUNCIL (Planning)	13	COUNCIL	18
Friday	1		6		10		14		19
Monday	4		9	NW	13	SE	17		22
Tuesday	5		10	CMTY	14		18		23
Wednesday	6	O&S Q4	11		15		19	CAC	24
Thursday	7	P&L Q4	12		16		20	COUNCIL (Planning) [6]	25
Friday	8		13		17		21		26

No MDC Meetings	MDC Council meetings	Bank Holiday	LGA Conference	School Holidays
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Monday	OCT.	29 NW	DECEMBER	10	JANUARY	21	MARCH	4 NW	APRIL	15
Tuesday		30		11		22		5		16
Wednesday		31		12 CAC		23 CAC		6		17 CAC
Thursday	NOVEMBER	1 COUNCIL (Planning)	DECEMBER	13	JANUARY	24 P&L	MARCH	7 P&L Q3	APRIL	18
Friday		2		14		25		8		19 GOOD FRIDAY
Monday		5 SE		17		28		11 SE		22 EASTER MONDAY
Tuesday		6		18		29 F&CS [9]		12 F&CS Q3		23
Wednesday		7		19		30		13 O&S CRIME		24
Thursday	8 COUNCIL	20 COUNCIL	31 COUNCIL (Planning)	14	25					
Friday	9	21	1	15	26					
Monday	NOVEMBER	12	DECEMBER	24	JANUARY	4 NW	MARCH	18	APRIL	29
Tuesday		13		25 CHRISTMAS DAY		5		19		30
Wednesday		14 CAC		26 BOXING DAY		6		20 CAC		1
Thursday		15 P&L Q2		27		7 AUDIT		21 COUNCIL (Planning)		2 ?? ELECTIONS ??
Friday		16		28		8		22		3
Monday	19	31	11 SE	25	6 BANK HOLIDAY					
Tuesday	20 CMTY Q2	1 NEW YEAR'S DAY	12	26	7					
Wednesday	21 O&S Q2	2	13	27	8					
Thursday	22	3	14 COUNCIL	28 COUNCIL	9					
Friday	23	4	15	29	10					
Monday	NOVEMBER	26 NW	DECEMBER	7 NW	JANUARY 2018	18	MARCH	1 NW	MAY	13
Tuesday		27 F&CS Q2		8		19		2 CMTY		14
Wednesday		28		9 O&S		20 CAC		3		15
Thursday		29		10		21 STNDS		4 AUDIT		16 ??STAT COUNCIL??
Friday		30		11		22		5		17
Monday	3 SE	14 SE	25	8 SE	20					
Tuesday	4	15 CMTY	26 CMTY	9	21					
Wednesday	5	16	27 O&S Q3	10 O&S	22					
Thursday	6 AUDIT Q2	17	28	11 P&L	23 ??STAT COUNCIL??					
Friday	7	18	1	12	24					

No MDC Meetings	MDC Council meetings	Bank Holiday	LGA Conference	School Holidays
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