

## **The Constitution of Gravesham Borough Council**

### **Annex 2: Procedural Rules**

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Service Manager (Communities) is responsible for ensuring that  
Annex 2 to the Constitution is kept up to date

## Procedural Rules

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## Annex 2.1: Council Procedure Rules

### 1. Application of these Rules

#### 1.1 Meetings of the Full Council

All of the Council Procedure Rules apply to these meetings.

#### 1.2 Meetings of Committees and Sub-Committees of the Council

All of the Council Rules of Procedure apply to these meetings, except paragraphs 4 to 6; 7.1 and 7.2; 8.1 to 8.4; 12 and 13; 14; 15; 17.4.1; 18; 20.4; 21.2; 24.1; and 26.

#### 1.3 Meetings of the Cabinet

The Council Rules of Procedure do not apply to these meetings, which are covered by the Cabinet Procedure Rules in Annex 2.4 to this Constitution.

### 2. Definitions

2.1 **“Committee”** includes any committee, sub-committee, board, panel or working party of Councillors which has been duly constituted in accordance with this Constitution.

2.2 **“Chair”** means the person presiding at a meeting including, where the context requires, the Mayor or Deputy Mayor. In these Rules, the powers of the Mayor as Chair of the Council are vested in any Member appointed to Chair a meeting of the Council in his/her absence.

2.3 **“Member of the Cabinet”** means any Councillor appointed to serve on the Cabinet for the time being, including the Leader of the Executive, unless the context requires otherwise.

2.4 **“Political Group”** means a group formed under Section 15 of the Local Government and Housing Act 1989.

2.5 **“Working Days”** means days when the Council’s offices are open for normal business.

### 3. Proper Officer

The Service Manager (Communities) will be the “Proper Officer” for the purposes of paragraphs 4(2) and (3) of Part I, Schedule 12 of the Local Government Act 1972 and, unless otherwise stated, all references to the Proper Officer in these Rules are to the Service Manager (Communities).

#### **4. Annual Meeting of the Council**

##### **4.1 Business**

The annual meeting will:-

- (1) elect a person to preside if the Mayor is not present;
- (2) elect the Mayor;
- (3) elect the Deputy Mayor;
- (4) approve the minutes of the last meeting;
- (5) elect the Leader of the Executive in accordance with the procedures set out in Article 7 of the Constitution;
- (6) appoint at least one Scrutiny Committee and a Standards Committee in accordance with Articles 6 and 9 of this Constitution;
- (7) decide which other committees to establish for the ensuing municipal year to deal with matters which are neither reserved to the Council nor are Cabinet functions; and, in relation to those committees:-
  - (a) decide their size and terms of reference;
  - (b) decide the allocation of seats to political groups in accordance with the Political Balance Rules;
  - (c) receive nominations of councillors to serve on each committee; and
  - (d) appoint Members to those committees, including the appointment of Chairs and Vice Chairs, except where such appointments have been delegated by the Council or can only be made by the Cabinet.
- (8) receive nominations of councillors to serve on outside bodies and make appointments to them except where appointment to those bodies has been delegated by the Council or is can only be made by the Cabinet;
- (9) approve the Policy Framework and Budget and set the financial thresholds for Key Decisions for the forthcoming year;
- (10) re-affirm the scheme of delegation relating to the Council's functions, other than Cabinet functions;
- (11) approve a programme of ordinary meetings of the Council and its committees for the year;
- (12) receive any reports from officers of the Council;

- (13) receive any announcements from the Mayor; and
- (14) consider any other business set out in the notice convening the meeting.

## **5. Ordinary Meetings of the Council**

### **5.1 Order of Business**

5.1.1 Ordinary Meetings of the Council will deal with the following business:-

- (1) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (2) deal with any business which a statute requires must be dealt with before any other business;
- (3) approve the minutes of the last meeting;
- (4) receive any declarations of interest from Members;
- (5) receive questions from, and provide answers to, members of the public that have been received in accordance with paragraph 13 of these Council Procedure Rules;
- (6) deal with any business remaining from the last Council meeting;
- (7) receive any proposals from the Cabinet in relation to the Council's Policy Framework and Budget;
- (8) appoint Members to any vacancies on Committees that have been notified to the Proper Officer, including any vacancy of Chair or Vice Chair, except where such appointments have been delegated by the Council or can only be made by the Cabinet;
- (9) receive the minutes of the Council's Cabinet/committees and any Joint Committees, including any reports of a Scrutiny Committee that have been submitted, and to receive questions and answers on any of those minutes and reports;
- (10) receive any reports from officers of the Council;
- (11) consider motions that have been submitted under Rule 15;
- (12) receive questions from, and provide answers to, any Members of the Council that have been received under Rule 14;
- (13) receive any announcements from the Mayor;



- (14) consider any other business specified in the summons to the meeting;

5.1.2 Items (1), (2) and (3) under paragraph 5.1.1 above may not be displaced from the agenda, but the order of the remaining items of business for the meeting may be varied:-

- (1) at the Chair's discretion; or
- (2) by a resolution passed on a motion which need not be by notice or in writing but which shall be decided without discussion.

## **5.2 Reports of Cabinet/Committees**

The following procedure will apply for dealing with business under paragraph 5.1.1(9) above (minutes and reports of Cabinet and committees of the Council, etc.):-

- (1) the Chair of the Cabinet/Committee will move that:-

"the proceedings, reports and recommendations of the Cabinet/Committee, except those items which have been reserved, be received and adopted and the orders made by it be ratified and confirmed"

- (2) in moving a motion under paragraph 5.2(1), the Chair may make a statement drawing the attention of the Council to any points of importance contained in the reports and giving such information as the Chair may think advisable; and may also reserve an item or items for debate at the meeting in circumstances where subsequent information or events that were not known to the Cabinet/committee at its meeting make it desirable that the meeting should be informed.
- (3) on being seconded, the motion moved by the Chair will in each case be deemed to be before the meeting.
- (4) prior to this motion then being considered, the Chair may make a statement drawing the attention of the Council to any points of importance contained in the report and giving such information as the Chair may think advisable.
- (5) the Mayor will then call for the Council to approve the reports and recommendations contained in the Minutes, with the exception of any Reserved Items.
- (6) the procedure for reserving an item for debate at an Ordinary Meeting of the Council is as follows:-
  - (a) a Member wishing to speak on any matter contained in reports of Cabinet/committees must notify the Proper Officer by mid-day on the day of the Council meeting indicating the page and minute number;

- (b) exceptionally, notice of Reserved Items may be accepted by the Proper Officer after mid-day on the day of the meeting where the Proper Officer is satisfied that the matter is one of urgency or there are other valid reasons for proper notice not having been given;
  - (c) such items will be designated a "Reserved Item" within these Rules and a list of such Reserved Items will be made available to Members at the meeting.
- (7) after the Council has approved the reports and recommendations as required in sub-paragraphs (1) to (5) above, the appropriate Chair will move that:-

"the proceedings, reports and recommendations contained in the Reserved Items of the Cabinet/Committee be received and adopted and the orders made by it be ratified and confirmed"

once this motion has been seconded, it will in each case be deemed to be before the meeting.

- (8) the Chair may then make a statement drawing the attention of the Council to any points of importance contained in the Reserved Items.
- (9) the Reserved Items shall then be dealt with in the order in which they appear in the list of reserved items, although the Mayor may alter this order at his/her discretion.
- (10) a Member shall not be prevented from participating in the debate on any of the Reserved Items solely because s/he has not indicated a desire to speak on the matter under sub-paragraph (6) of this paragraph.
- (11) after each Reserved Item has been dealt with and an opportunity given to the Chair to reply to any matters raised in the course of debate, any motion contained in the item (as amended by any amendment that may have been approved by the Council) will be put to the vote.
- (12) the Council, when considering the report and proceedings of a Committee, may not amend a resolution of that Committee which has been properly passed under powers delegated to it by the Council except in accordance with paragraph 5.2(2)(a) of these Council Procedure Rules (accuracy of statement of proceedings). This will not prevent the discussion of any such resolution and the asking of questions about it under Rule 14 (questions by Members).

## **6. Extraordinary and Special Meetings**

### **6.1 Extraordinary Meetings of the Council**

6.1.1 Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:-

- (1) the Council by resolution;
- (2) the Mayor;

- (3) the Monitoring Officer; and
- (4) any five Members of the Council if they have signed a requisition presented to the Mayor and s/he has refused to call a meeting or has failed to call a meeting within seven working days of the presentation of the requisition.

6.1.2 When requesting the Proper Officer to call an Extraordinary Meeting of the Council, the reason for the request must be stated.

6.1.3 The business of an Extraordinary Meeting of the Council will be limited to those items for consideration which have been the subject of a request under sub-paragraph 6.1.1 above, as specified to the Proper Officer under sub-paragraph 6.1.2 above.

## **6.2 Special Meetings of Committees**

6.2.1 A Special Meeting of a committee of the Council may be called at any time by:-

- (1) the Chair of the Committee; or
- (2) a requisition signed by three Members of the committee or, in the case of any committee with a total Membership of seven or less, by two Members.

6.2.2 The business to be transacted at a Special Committee Meeting will be set out in the summons in the usual way.

## **7. Appointment of Substitute Members of Committees**

### **7.1 Powers and Duties of Substitute Members**

Substitute Members will have all the powers and duties of any ordinary Member of the committee but they will not be able to exercise any special powers or duties (such as those of the Chair or Vice-Chairs) exercisable by the person for whom they are substituting.

### **7.2 Making Substitutions**

7.2.1 Substitute Members may only attend meetings in that capacity:

- (1) to take the place of the ordinary Member for whom they are the designated substitute;
- (2) where the ordinary Member will be absent for the whole of the meeting; and

- (3) if the Leader of the political group to which the Member and the substitute both belong, or in his/her absence the Deputy Leader of that group has, before the start of the meeting, given notice to the Proper Officer of the names of the Member and the substitute to attend in his/her place.

7.2.2 Once a substitute has been nominated to attend a meeting of a committee, the Member in whose place the substitute attends will no longer be entitled to attend that meeting as a Member of that committee.

7.2.3 No political group is allowed to substitute more than three Members at any one meeting of a committee or sub-committee.

## **8. Date, Time and Place of Meetings**

### **8.1 Summons**

The Proper Officer will specify in the summons to all meetings of the Council, its committees and sub-committees, the date, time and place of the meeting.

### **8.2 Annual Meeting of the Council**

8.2.1 In a year when there is an ordinary election of councillors, the Annual Meeting will normally take place on the Tuesday following the eighth day after the retirement of the outgoing councillors or, if that eighth day is a Tuesday, on that day; but in any event the Annual Meeting will take place within 21 days of the retirement of councillors.

8.2.2 In any other year, the annual meeting will take place in May, and normally on the second Tuesday of that month.

8.2.3 The Annual Meeting will be held in the Woodville Halls, Gravesend, commencing at 7.00 p.m. In the event that this venue is unavailable, the Mayor may determine an alternative.

### **8.3 Ordinary Meetings of the Council**

Ordinary Meetings of the Council will take place in accordance with the Programme of Council and Committee Meetings decided at the Council's Annual Meeting. Ordinary Meetings will be held at the Civic Centre, Gravesend, commencing at 7.30 p.m. If this venue is unavailable, the Mayor may determine an alternative.

### **8.4 Extraordinary Meetings of the Council**

Extraordinary meetings of the Council will be held at the Civic Centre, Gravesend, commencing at 7.30 p.m. If this venue is unavailable, the Mayor may determine an alternative.

## 8.5 Ordinary Meetings of Committees, etc.

Ordinary Meetings of committees and sub-committees of the Council will take place in accordance with the Programme of Council and Committee Meetings decided at the Council's Annual Meeting. Such meetings will normally be held at the Civic Centre, Gravesend, commencing at 7.30 p.m. although in exceptional circumstances the Proper Officer, in consultation with the Chair of the Committee, may determine an alternative time and venue.

## 8.6 Alteration of the Dates of Meetings

If any day set for a meeting of the Council or any of its committees falls on a day which:-

- (1) is subsequently appointed a public holiday or a day appointed for public thanksgiving or mourning; or
- (2) falls on a day or at a time which, owing to exceptional circumstances, is deemed by the Chair to be unsuitable.

then that meeting shall be held on a day and at a time to be fixed by the Chair.

## 9. Notice of and Summons to Meetings

9.1 The Proper Officer will give notice to the public of the time and place of any meeting of the Council or its committees and sub-committees in accordance with the Access to Information Rules.

9.2 At least five clear days before a meeting, the Proper Officer will send to every Member of the Council, or to every Member of the committee or sub-committee as the case may be, a summons signed by him or her by e-mail and a hard copy will be available for collection by Members.

9.3 The summons will -

- (1) give the date, time and place of the meeting; and
- (2) specify the business to be transacted; and
- (3) be accompanied by such reports as are available.

9.4 If, due to lack of business, it appears to the Proper Officer that it would be inconvenient to summon any meeting of a committee or sub-committee of the Council then s/he may, in consultation with the Chair of that committee or sub-committee, cancel the meeting.

## 10. Chair of Meeting

10.1 In the absence of the Chair, the Vice-Chair will preside at the meeting. If the Vice Chair is also absent, the meeting will appoint a Member to preside for that meeting only.

- 10.2 The person presiding at the meeting may exercise any power or duty of the Chair in relation to that meeting.

## **11. Quorum**

- 11.1 Except where authorised otherwise by a statute, the quorum of a meeting will be one quarter of the number of Members entitled to attend and vote on the matters being considered at that meeting. No quorum for a committee or board shall be less than three Members. The quorum for a sub-committee or Panel with seven or fewer members shall be two members. (The Council has agreed a quorum for the Standards Committee will be 3 members).
- 11.2 During any meeting, if the Chair or other person presiding counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn for 15 minutes.
- 11.3 If, after 15 minutes, the Chair or other person presiding counts the number of Members present and declares there is not a quorum present, then the meeting will end.
- 11.4 If the meeting ends in accordance with paragraph 11.3 above, any remaining business will, regardless of any other provisions of these Rules, be considered at a time and date fixed by the Chair. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **12. Duration of Meetings**

- 12.1 Interruption of the Meeting:

Where a Full Council meeting is still in progress after 3 hours or at 10.30pm (whichever is the earlier time) the Mayor will:-

- (1) at the first convenient opportunity, draw the attention of the meeting to the time and to the provisions of this Rule;
- (2) specify any remaining business which, in the Mayor's opinion, is of such a nature as to justify an adjournment or extension of the meeting;
- (3) with the exception of any business so specified, all motions, questions and business remaining to be dealt with shall be deemed to have been moved and seconded and shall be put to the vote in immediate succession and without discussion;
- (4) after the meeting has dealt with any motions put under sub-paragraph (3) above:-
  - (a) in the event of the Mayor having specified any business as justifying an extension of the meeting, deal with the items specified in sub-paragraph (2) above;

- (b) in the event of the Mayor having specified any business as justifying an adjournment, declare the meeting adjourned to -
  - (i) such a day and time as the Mayor may determine; or
  - (ii) to the next ordinary meeting of the Council, committee or sub-committee as the case may be.

## 12.2 **Motions which May be Moved**

During the process set out in paragraph 12.1 above, the only other motions which may be moved are that a matter be:-

- (1) withdrawn;
- (2) delegated; or
- (3) referred to an appropriate body or individual for decision or report.

## 12.3 **Recorded Vote**

If a recorded vote is called for during the process set out in paragraph 12.1 above, it will be taken immediately.

## 12.4 **Close of the meeting**

When all motions moved under paragraph 12.2 above have been dealt with, the Mayor will declare the meeting closed.

# 13. **Questions by the Public**

## 13.1 **General**

Members of the public may ask questions of the Cabinet at ordinary meetings of the Council. There shall be no more than five questions by the public at any meeting.

## 13.2 **Notice of Questions**

- 13.2.1 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Proper Officer no later than midday on the day before the day of the meeting;
- 13.2.2 Each question must give the name and address of the questioner;
- 13.2.3 The questions received will be set out in the order paper for the meeting;
- 13.2.4 Only the first five questions received by the Proper Officer will be set out in the order paper for the meeting;

13.2.5 The Proper Officer may determine that substantially identical questions be joined together and dealt with as one. For the avoidance of doubt this question will only count as one of the five questions allowed.

### **13.3 Time Allowed for Questions**

Each questioner will be allocated a maximum of three minutes to ask their question. The time allotted for answering questions by members of the public shall not exceed 30 minutes. At the end of the allotted time, the Mayor will inform the meeting that any questions remaining will be dealt with under paragraph 13.8 below (written answers).

### **13.4 Scope of questions**

The Proper Officer may reject a question if it:-

- (1) Is about a matter for which the local authority does not have a responsibility or which does not affect the Borough;
- (2) Is defamatory, frivolous or offensive;
- (3) Requires the disclosure of confidential or exempt information.

### **13.5 Order of Questions**

In setting out questions in the order paper for the meeting, the Proper Officer may group together similar questions.

### **13.6 Responses to Questions**

The Leader of the Executive will determine which Members of the Cabinet will answer questions in respect of all matters that are the responsibility of the Cabinet.

### **13.7 Oral Answers**

The Mayor will call upon the Member of the Cabinet designated to respond to each question in turn.

### **13.8 Written Answers**

Any question which cannot be dealt with during public question time will be dealt with by a written answer.

### **13.9 Deputations**

Notice of a Deputation must be given to the Proper Officer at least 7 clear working days prior to the Council meeting by the Mayor or any three Members of the Council. The notice must certify that the subject upon which the deputation desire to speak is one upon which it is reasonable for the Council to receive a deputation.



A deputation must be introduced by a Member of the Council.

No deputation shall consist of more than five members. There shall be no limit as to how many of those members may speak. The time allocated for speaking by these members will not exceed fifteen minutes in total and any subsequent debate will not exceed a further fifteen minutes.

A copy of any petition which a deputation wants to present to the Council shall be delivered to the Proper Officer at least seven clear working days before the meeting at which the deputation is to be received. Details of the main points contained within the petition shall be circulated to the members of the Council.

### **3.10 Petitions**

Notice of any petition which as a result of the Petitions Scheme (See Annex 3.12) is to be considered by the Council must be given to the Proper Officer at least seven clear working days prior to the Council meeting.

The petition organiser or nominated substitute may submit a summary of the issues raised in the petition to the Proper Officer at least seven clear working days prior to the Council meeting. This summary will be circulated to all councillors.

The petition organiser or nominated substitute will be given up to five minutes to address the Council. The subsequent debate (during which the petition organiser or nominated substitute will not be able to speak) will not exceed a further fifteen minutes.

## **14. Questions by Members**

### **14.1 Questions by Notice at a Meeting of the Council**

Subject to paragraph 15.2 of these Council Procedure Rules, a Member of the Council may put a question on any matter in relation to which the Council has powers or duties or which affects the Borough of Gravesham to any of the following:-

- (1) the Mayor;
- (2) a Member of the Cabinet;
- (3) the Chair of any Committee or Sub-Committee.

### **14.2 Notice of Questions**

A Member may only ask a question under paragraph 14.1 of these Council Procedure Rules where they have given at least five working days' notice in writing of the question to the Proper Officer.

### 14.3 **Response**

14.3.1 An answer to a question under paragraph 14.1 of these Council Procedure Rules may take the form of:-

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

14.3.2 The Member of whom a question has been asked may decline to answer the question.

## 15. **Motions by Notice**

### 15.1 **Notice**

Except for motions which can be moved without notice under paragraph 16 of these Council Procedure Rules, written notice of every motion, signed by the Member or Members giving notice, must be delivered to Proper Officer not later than seven working days before the date of the meeting (excluding the day of giving notice and the day of the meeting).

### 15.2 **Motions to be set out in Agenda**

Subject to paragraph 15.3 of these Rules, motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member or Members who gave notice state, in writing, that they now propose to move it to a later meeting or withdraw it.

### 15.3 **Exclusion of Motion**

15.3.1 In the event that a motion is either out of order under these Council Procedure Rules or is of a personal or objectionable nature, the Proper Officer, after consulting with the Mayor, may either:

- (1) exclude the motion from the summons to the meeting; or
- (2) make such alterations to the motion as will bring it into an acceptable form.

15.3.2 In these circumstances, the Proper Officer will immediately inform the Member(s) of the Council who gave the notice of his/her decision.

#### 15.4 **Lapse of Motion**

If a Notice of Motion has been given under paragraph 15.1 of these Rules, but is not moved by any Member at the time when the Mayor reaches that item on the agenda then, unless the meeting agrees to postpone the motion (which will be determined without debate), the motion will be treated as abandoned and may not be moved again without fresh notice being given in accordance with paragraph 15.1 of these Rules.

#### 15.5 **Scope of Motions**

Motions must be about matters for which the Council has a responsibility or which affect the Borough of Gravesham.

#### 15.6 **Referral of Motions to Cabinet/Committees**

15.6.1 If the subject matter of a motion concerns a function of the Council which has been delegated to the Cabinet or a committee or committees of the Council then, once the motion has been formally moved and seconded, it will stand referred without debate to the appropriate Cabinet/committee for consideration and report;

15.6.2 In these circumstances, the motion will be re-submitted to the Council at its next meeting and be dealt with in accordance with paragraph 5.2 of these Council Procedure Rules (reports of Cabinet/committees);

15.6.3 However, the Mayor may, at his/her discretion, allow such a motion to be dealt with at the meeting at which it is brought forward if s/he considers it is in the public interest or otherwise desirable;

15.6.4 The proposer of any motion that is referred to the Cabinet or a committee under paragraph 15.6.1 of these Rules, and who is not already a Member of that Cabinet/committee, will be entitled to attend the meeting at which it is considered and to speak to it, but not to vote.

### 16. **Motions without Notice**

The following motions may be moved without notice:-

- (1) to appoint a Chair of the meeting at which the motion is moved;
- (2) in relation to the accuracy of the minutes;
- (3) to change the order of business in the agenda;
- (4) arising from an item on the summons for the meeting, to appoint a committee or Member;
- (5) to refer a matter to a committee or other appropriate body or individual;

- (6) to receive reports or the adoption of recommendations of committees or officers and any resolutions following from them;
- (7) to postpone consideration of a motion;
- (8) to withdraw a motion;
- (9) to amend a motion;
- (10) to extend the time limit for speeches under paragraph 17.4.1 of these Council Procedure Rules;
- (11) to proceed to the next business;
- (12) that the question be now put;
- (13) to determine which method of voting to adopt under paragraphs 20.3 – 20.6 of these Council Procedure Rules;
- (14) to adjourn a debate;
- (15) to adjourn a meeting;
- (16) to suspend a particular Procedural Rule in accordance with Article 16.01 of the Council's Constitution;
- (17) that a Member be invited to remain in the meeting;
- (18) to exclude the public and press in accordance with the Access to Information Procedure Rules set out at Annex 2.2 to this Constitution;
- (19) to debar a Member from raising points of order under paragraph 17.12 or of personal explanation under paragraph 17.13 of these Council Procedure Rules for the remainder of the meeting;
- (20) to not hear further a Member named under paragraph 24.3 or to exclude them from the meeting under paragraph 24.4 of these Council Procedure Rules; and
- (21) to give the consent of the Council where its consent is required by this Constitution.

## **17. Rules of Debate**

### **17.1 No speeches until a Motion is Seconded**

17.1.1 A motion moved at a meeting by the Chair does not need to be seconded.

17.1.2 In all other cases, once the mover of a motion has introduced the motion and explained its purpose, no speeches may be made until the motion has been seconded.

**17.2 Right to require Motion in writing**

Unless notice of the motion has already been given under paragraph 15 of these Council Procedure Rules, the Chair may require it to be written down and handed to him/her before it is discussed.

**17.3 Secunder's speech**

When seconding a motion or amendment, a Member may reserve their right to speak until later in the debate.

**17.4 Length and content of speeches**

17.4.1 When moving a motion a Member may speak for eight minutes. No other speech may exceed five minutes. These time limits may be extended at any time with the consent of the meeting, if necessary decided by a vote taken without discussion.

17.4.2 Speeches must be directed to:

- (1) the question under discussion;
- (2) a personal explanation; or
- (3) a point of order, in which case the Member must state the Article or Procedural Rule of this Constitution under which the point of order is being raised.

**17.5 When a Member may speak again**

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:-

- (1) if his/her first speech was formally to second a motion or amendment;
- (2) in the case of the Chair of the Cabinet or a Committee, if his/her first speech was to draw attention to a matter of importance when introducing committee reports or proceedings under paragraph 5.2(2) of these Council Procedural Rules;
- (3) to speak once on an amendment moved by another Member;
- (4) to move a further amendment if the motion has been amended since s/he last spoke;
- (5) if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which s/he spoke was carried);
- (6) in exercise of a right of reply;

- (7) on a point of order;
- (8) by way of personal explanation;
- (9) to move either that:-
  - (a) the matter now be put; or that
  - (b) the meeting proceed to the next business; or that
  - (c) the meeting now be adjourned.

## 17.6 Amendments to Motions

17.6.1 An amendment to a motion must be relevant to the motion and will either be:-

- (1) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (2) to leave out words;
- (3) to leave out words and insert or add others; or
- (4) to insert or add words.

17.6.2 An amendment to a motion cannot be (or have the effect of being) a direct negative of the motion.

17.6.3 In the case of the Chair of the Cabinet or a Committee, where s/he has reserved an item when introducing committee reports or proceedings under paragraph 5.2(2) of these Council Procedural Rules, in which case the Chair may move an amendment when that item is reached, which must be then be seconded.

17.6.4 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been dealt with. However, a Member, in making a speech on a motion or amendment, may give notice of his/her intention to move an amendment at an appropriate time.

17.6.5 If an amendment is not carried, other amendments to the original motion may then be moved.

17.6.6 If an amendment is carried that a matter be referred to a committee or other appropriate body or individual, no further amendment may be moved and there will be no further discussion.

17.6.7 If an amendment (other than as in paragraph 17.6.6 above) is carried, the motion as amended takes the place of the original motion. The amended motion now becomes the substantive motion to which any further amendments may be moved.

17.6.8 After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

**17.7 Alteration of Motion**

17.7.1 With the consent of both the meeting and the seconder, a Member may alter a motion which s/he has moved with or without notice. The meeting's consent will be signified, if necessary by a formal vote, without discussion.

17.7.2 Only alterations which could be made as an amendment may be made.

**17.8 Withdrawal of Motion**

17.8.1 With the consent of both the meeting and the seconder, a Member may withdraw a motion which s/he has moved. The meeting's consent, if necessary by a formal vote, will be signified without discussion.

17.8.2 No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

**17.9 Right of Reply**

17.9.1 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

17.9.2 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

17.9.3 The mover of the amendment has no right of reply to the debate on his or her amendment.

17.9.4 However, if an amendment is carried and then becomes the substantive motion, the mover of the original amendment will have a right of reply to any subsequent amendment to that substantive motion.

17.9.5 A Member exercising the right of reply may speak only to answer points made by other Members, and may not introduce any new matters into the debate.

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

When a motion is under debate, no other motion may be moved except the following procedural motions:-

- (1) to withdraw a motion;

- (2) to amend a motion;
- (3) to proceed to the next business;
- (4) that the question be now put;
- (5) to adjourn a debate;
- (6) to adjourn a meeting;
- (7) to exclude the public and press in accordance with the Access to Information Procedure Rules set out in Annex 2.2 to this Constitution; and
- (8) to not hear further a Member named under paragraph 24.3 or to exclude them from the meeting under paragraph 24.4 of these Council Procedure Rules.

#### **17.11 Closure and adjournment Motions**

17.11.1 A Member may move, without comment, the following motions at the end of a speech of another Member:-

- (1) to proceed to the next business;
- (2) that the question be now put;
- (3) to adjourn the debate; or
- (4) to adjourn the meeting.

17.11.2 If a motion to proceed to next business is seconded and the Mayor considers that the item has been sufficiently discussed, s/he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

17.11.3 If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, s/he will put the procedural motion to the vote. If it is passed s/he will give the mover of the original motion a right of reply before putting his/her motion to the vote.

17.11.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, s/he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.



- 17.11.5 If any motion is moved under paragraphs 17.11.1 to 17.11.4 above, and is then put to the vote and lost, no further motion in the same terms and on the same item may be moved within 30 minutes of the preceding motion being lost.

**17.12 Points of order**

- 17.12.1 A Member may raise a point of order at any time. The Mayor will hear them immediately.
- 17.12.2 A point of order may only relate to an alleged breach of an Article of the Constitution of these Council Procedure Rules or of the law. The Member must indicate the Article, Procedural Rule or law and the way in which s/he considers it has been broken.
- 17.12.3 The ruling of the Mayor on the matter will be final.

**17.13 Personal explanation**

- 17.13.1 A Member may make a personal explanation at any time.
- 17.13.2 A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate.
- 17.13.3 The ruling of the Mayor on the admissibility of a personal explanation will be final.

**17.14 Matters affecting individual employees of the Council**

If any matter arises at a meeting of the Council (or the Cabinet or any committee) concerning any person employed by the Council in relation to their:-

- (1) appointment, promotion, dismissal, salary or conditions of service; or their
- (2) conduct;

then this matter may not be discussed until the Council or Cabinet or committee (as the case may be) has decided whether or not to exclude the public under Section 100A(4) of the Local Government Act 1972.

**18. State of the Borough Debate**

**18.1 Annual Debate**

The Council will hold an annual State of the Borough Debate, normally in January of every year.

## **18.2 Form of Debate**

The State of the Borough Debate will commence with a speech by the Leader lasting no longer than fifteen minutes. This is to be followed by a reply from the Leader of the Opposition lasting no longer than ten minutes, and a right of reply by the Leader lasting no longer than five minutes. This is to be followed by a debate on a number of topics chosen by public poll. The Proper Officer is to be final arbiter as to whether a topic shall be included in the agenda for debate.

## **18.3 Chairing the Debate**

The debate will be chaired by the Mayor or Deputy Mayor.

## **18.4 Results of Debate**

The results of the debate will be:-

- (1) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (2) considered by the Cabinet in proposing the Policy Framework and Budget to the Council for the coming year.

## **19. Previous Decisions and Motions**

### **19.1 Motion to rescind a previous decision**

A motion to rescind a decision made at a meeting within the past six months, or an amendment having substantially the same effect, cannot be moved unless the notice of motion is signed by at least 11 Members.

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

19.2.1 A motion in similar terms to one that has been rejected at a meeting within the past six months, or an amendment having substantially the same effect, cannot be moved unless the notice of motion or amendment is signed by at least 11 Members.

19.2.2 Once the motion or amendment is dealt with, no Member can propose a similar motion or amendment for six months.

## **20. Voting**

### **20.1 Majority required to decide matters**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

**20.2 Mayor's casting vote**

If there are equal numbers of votes for and against, the Mayor (or person presiding in his/her place) will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

**20.3 Show of hands**

20.3.1 Unless a recorded vote is demanded under paragraph 20.4 of these Council Procedure Rules, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

20.3.2 The Mayor's declaration of the result of a vote taken by a show of hands or by affirmation will be conclusive.

**20.4 Recorded vote**

If five of the Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

**20.5 Right to require an individual vote to be recorded**

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

20.5.2 This right applies at any meeting of the Council, its Cabinet or committees and sub-committees and at any meeting of a Joint Committee or sub-committees of a Joint Committee.

**20.6 Voting on appointments**

20.6.1 If there are more than two people nominated for a single position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a clear majority of votes for one person.

20.6.2 Where there are 2 or more positions to be filled and more persons are nominated than there are vacancies, the meeting will first decide (without debate) which of the following two methods (block voting or individual voting), it wishes to use:

**(1) Block voting**

(a) a group of names (up to the number of positions to be filled) will be moved, seconded and put to the vote;

- (b) if the motion is carried, but there remain positions to be filled, further nominations may be received. If there are more persons nominated for the remaining positions than there are positions to be filled, the procedure under paragraph 20.6.1 or 20.6.2 of these Rules (as appropriate) will be repeated until all the vacancies are filled;
- (c) if the motion is defeated, an alternative group of names may be moved, seconded and put to the vote.

(2) **Individual voting**

- (a) each Member of the Council will have as many votes as there are positions to be filled and may only give one vote for any nominee;
- (b) the Mayor will put to the meeting the name of each nominee in the order of nomination and will record the number of votes given for each nominee;
- (c) the persons having the highest number of votes will be declared as appointed to the vacant positions;
- (d) if this procedure does not produce a clear decision due to equal votes being cast for two or more nominees, a further vote will be taken to determine which of the persons with an equal number of votes will be appointed to the remaining positions.

## 21. Minutes

### 21.1 Signing the Minutes

21.1.1 At the next suitable meeting, the Mayor will move that the minutes of the previous meeting be signed as a correct record and if this is agreed, the Mayor will sign the minutes of the proceedings.

21.1.2 The only matter relating to the minutes that can be discussed is their accuracy.

### 21.2 No requirement to sign Minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

## 22. Record of Attendance

All Members present during the whole or part of a meeting must sign their names in the Attendance Register before the conclusion of every meeting to assist with the record of attendance.

## **23. Exclusion of Public and Press**

Members of the public and press may only be excluded in accordance with either:-

- (1) the Access to Information Rules set out in Annex 2.2 to this Constitution; or
- (2) paragraph 25 of these Council Procedure Rules (Disturbance by Public).

## **24. Members' Conduct**

### **24.1 Standing to speak**

24.1.1 When a Member speaks at meetings of the Council they must stand and address the meeting through the Mayor. Members who are wheelchair users, or otherwise unable to stand without difficulty, will be exempt from this requirement.

24.1.2 If more than one Member stands (or if unable to stand, indicates their wish to speak) the Mayor will ask one to speak and the others must sit. Unless they wish to make a point of order or a point of personal explanation, other Members must remain seated whilst a Member is speaking until called to speak by the Mayor.

### **24.2 Mayor Standing**

24.2.1 When the Mayor stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

24.2.2 In the event that the Mayor is a wheelchair user or otherwise unable to stand without difficulty, if s/he clearly indicates that all Members present shall sit and be silent, they will comply.

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

24.3.1 If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the Member be not heard further.

24.3.2 The motion will be voted on without discussion.

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

24.4.1 If a motion under paragraph 24.3 of these Rules (that a Member be not heard further) is carried, and the Member concerned then continues to behave improperly, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period.

24.4.2 The motion will be voted on without discussion.

24.4.3 If a motion to exclude a Member from the meeting is carried and that Member (after being invited to leave by the Mayor) refuses to leave, then the Mayor may authorise that Member's removal from the room and his/her exclusion for the remainder of the meeting.

**24.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as s/he thinks necessary.

**25. Disturbance by the Public**

**25.1 Removal of member of the public**

If a Member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

**25.2 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

**26. Suspension and Amendment of Council Procedure Rules**

**26.1 Suspension**

26.1.1 All of these Council Procedure Rules, except paragraphs 20.5 (right to require individual vote to be recorded) and 21.2 (no requirement to sign minutes at Extraordinary meeting), may be suspended by motion on notice or, if at least one half of the whole number of Members of the Council are present, by motion without notice.

26.1.2 Suspension can only be for the duration of the meeting and to the extent permitted by law.

**26.2 Amendment of these rules**

Any motion to add to, vary or revoke these Council Rules of Procedure shall be considered and determined in accordance with Article 15.03 of the Constitution.

## Annex 2.2: Access to Information Procedure Rules

### 1. Application of these Rules

These rules apply to all meetings of:-

- (1) the full Council;
- (2) public meetings of the Cabinet;
- (3) the Scrutiny Committees;
- (4) the Planning Committee;
- (5) the Standards Committee;
- (6) the Licensing Committee;
- (7) the Finance and Audit Committee;
- (8) any other committees that may be appointed by the Council; and
- (9) area Committees (if any).

which are collectively called 'meetings'.

### 2. Definitions

- 2.1 A **"Key Decision"** is as defined in Article 13.04 of this Constitution.
- 2.2 **"Working Days"** means days when the Council's offices are open for normal business.

### 3. Proper Officer

Service Manager (Communities) will be the "Proper Officer" for the purposes of paragraphs 4(2) and (3) of Part I, Schedule 12 of the Local Government Act 1972 and, unless otherwise stated, all references to the Proper Officer in these Rules are to the Service Manager (Communities).

### 4. Additional Rights to Information

These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### 5. Rights to Attend Meetings

- 5.1 Subject only to the exceptions in these Rules, Members of the Council are entitled to attend the proceedings of any Cabinet or committee of the Council of which they are not a Member and may, with the permission of the Chair of the meeting, speak (but not in any circumstances vote) on any matter being considered by the meeting.
- 5.2 Members of the public may attend all meetings subject only to the exceptions in these rules.

### 6. Notices of Meetings

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at the Civic Centre, Windmill Street, Gravesend.

**7. Access to Agenda and Reports before the Meeting**

- 7.1 The Council will make copies of the agenda and reports for meetings that are open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection for the time the item was added to the agenda.
- 7.2 Where reports are prepared after the summons has been sent out, the Proper Officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

**8. Supply of Copies**

- 8.1 The Proper Officer will supply by e-mail a copy of the agenda and reports for any meeting of the Council to any Member who requests them in writing.
- 8.2 The Council will supply to any person (on payment of a charge for postage and any other costs) copies of:-
- (1) any agenda and reports which are open to public inspection;
  - (2) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - (3) if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item.

**9. Access to Minutes etc. after the meeting**

The Council will make available copies of the following for six years after a meeting:-

- (1) the minutes of the meeting or records of decisions taken together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (2) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (3) the agenda for the meeting; and
- (4) reports relating to items when the meeting was open to the public.

**10. Background Papers**

**10.1 List of Background Papers**

Every report shall contain a list of those documents (called 'background papers') relating to the subject matter of the report which in the opinion of the report's author:-



- (1) disclose any facts or matters on which the report or an important part of the report is based; and
- (2) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in paragraph 12 of these Rules) and in respect of Cabinet reports, the advice of a political advisor.

## **10.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **11. Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Civic Centre, Gravesend.

## **12. Exclusion of access by the public to Meetings**

### **12.1 Confidential Information: Requirement to Exclude Public**

The public must be excluded from meetings whenever, in view of the nature of the business to be transacted or the nature of the proceedings, it is likely that confidential information would be disclosed.

### **12.2 Exempt Information: Discretion to Exclude Public**

12.2.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

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

### **12.3 Meaning of Confidential Information**

'Confidential information' means:-

- (1) information given to the Council by a Government Department on terms which forbid its public disclosure; or
- (2) information which cannot be publicly disclosed by Court Order.

### **12.4 Meaning of Exempt Information**

12.4.1 Exempt information means information falling within the following seven categories (subject to the conditions shown):

Category	Condition
1. Information relating to an individual.	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, - i.e. it must relate to, and be recognisable as, referring to a particular individual in the roles indicated.</p> <p>Information is only exempt:</p> <p>(a) where disclosure is prohibited by statute; or  (b) where disclosure might involve providing personal information about individuals; or  (c) where disclosure might breach a duty of confidentiality; and  (d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
2. Information which is likely to reveal the identity of an individual.	As in 1 above.
3. Information relating to the financial or business affairs of any particular person (including the authority holding the information).	<p>Information is not exempt information if it is required to be registered by law e.g. Companies Act 1985, the Charities Act 1993, etc.</p> <p>Information is only exempt if and for so long as:-</p> <p>(a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the council in respect of property, goods or services whether the advantage would arise as against the council or as against other persons; or  (b) disclosure would prejudice the efficiency and effectiveness of the use of council resources; or</p> <p>(c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the council; and  (d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>

<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.</p>	<p>Information is only exempt if and for so long as its disclosure to the public:-</p> <p>(a) would prejudice the council in those or any other consultations or negotiations in connection with a labour relations matter;</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is only exempt:-</p> <p>(a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the council's legal services and its client; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes:-</p> <p>(a) to give under any enactment a notice under, or by virtue of which, requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information is only exempt if and so long as:-</p> <p>(a) disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is exempt only if its disclosure would, or would be likely to, prejudice:-</p> <p>(a) criminal investigations and proceedings; or</p> <p>(b) the apprehension or prosecution of offenders; or</p> <p>(c) the administration of justice; or</p> <p>(d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or</p> <p>(e) regulatory enforcement; or</p> <p>(f) any civil proceedings; or</p> <p>(g) health and safety; or</p> <p>(h) information obtained from confidential sources; and</p>

	(i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
<b>In addition to the categories referred to above, the following categories will apply to the proceedings of the Standards Committee only in connection with the investigation and consideration an allegation(s) of a breach of the Council's Member Code of Conduct</b>	
8. Information relating to the personal circumstances of any person.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, - i.e. it must relate to, and be recognisable as, referring to a particular individual in the roles indicated.  Information is only exempt:-  (a) where disclosure is prohibited by statute; or (b) where disclosure might involve providing personal information about individuals; or (c) where disclosure might breach a duty of confidentiality; and (d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
9. Information which is subject to any obligation of confidentiality.	
10. Information which relates in any way to matters concerning national security.	Information is only exempt if its disclosure would, or would be likely to, prejudice:-  (a) matters concerning national security; and (b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
11. The deliberations of the Standards Committee in reaching any finding on a matter relating to the conduct of an elected or co-opted member and parish councillors.	

12.4.2 Information falling within any of paragraphs 1-11 above is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

### **13. Exclusion of Access by the Public to Reports**

- 13.1 If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items which, in accordance with paragraph 12 of these Rules, are likely to be considered when the meeting is not open to the public.
- 13.2 Such reports will be marked "Not for Publication", together with the category of information that would be likely to be disclosed.

### **14. Application of Rules to the Cabinet**

- 14.1 Paragraphs 15 – 26 of these Rules apply at all times to the Cabinet and its committees (if any).
- 14.2 If the Cabinet or its committees meet to take a Key Decision as defined in Article 13.04 of this Constitution, then it must also comply with paragraphs 3 to 13 of these Rules, unless paragraph 17 (general exception) or paragraph 18 (special urgency) apply.
- 14.3 If the Cabinet or its committees meet with an officer (other than a political assistant) present, to discuss a matter that will materially affect, or is directly connected with, the future taking of a Key Decision that is to be taken collectively within 28 days of the date by which, according to the Forward Plan, it is to be decided, then it must also comply with paragraphs 3 to 13 of these Rules, unless paragraph 17 (general exception) or paragraph 18 (special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief Members.

### **15. Procedure before taking Key Decisions**

Subject to paragraph 17 (general exception) and paragraph 18 (special urgency), a Key Decision may not be taken unless:

- (1) a notice (called here a Forward Plan) under paragraph 16 of these Rules has been published in connection with the matter in question;
- (2) at least 5 clear working days have elapsed since the publication of the Forward Plan; and
- (3) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with paragraph 6 of these Rules (notice of meetings).

## 16. The Forward Plan

### 16.1 Period of the Forward Plan

Forward Plans will be prepared by the Leader of the Executive to cover a period of six months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent Plans will cover a period beginning with the first day of the second month covered in the preceding Plan.

### 16.2 Contents of the Forward Plan

16.2.1 The Forward Plan will contain matters which the Leader of the Executive has reason to believe will be subject of a Key Decision to be taken by:-

- (1) the Cabinet;
- (2) a committee of the Cabinet;
- (3) individual Members of the Cabinet;
- (4) officers;
- (5) area Committees, or under joint arrangements, in the course of the discharge of a Cabinet function during the period covered by the Plan.

16.2.2 It will describe the following particulars in so far as the information is available or might reasonably be obtained:-

- (1) the matter in respect of which a decision is to be made;
- (2) where the decision-taker is an individual, his/her name and title (if any) and, where the decision-taker is a body, its name and details of its Membership;
- (3) the date on which, or the period within which, the decision will be taken;
- (4) the identity of the principal groups whom the decision-taker proposes to consult before taking the decision;
- (5) the means by which any such consultation is proposed to be undertaken;
- (6) the steps any person might take who wishes to make representations to the Cabinet or decision-taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (7) a list of the documents submitted to the decision-taker for consideration in relation to the matter.

16.2.3 The Forward Plan must be published at least 14 days before the start of the period covered.

16.2.4 The Proper Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:-

- (1) that Key Decisions are to be taken on behalf of the Council;
- (2) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (3) that the Plan will contain details of the Key Decisions to be made for the four month period following its publication;
- (4) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (5) that each Plan will contain a list of the documents submitted to the decision-takers for consideration in relation to the Key Decisions on the Plan;
- (6) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (7) that other documents may be submitted to decision-takers;
- (8) the procedure for requesting details of documents (if any) as they become available; and
- (9) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

16.2.5 Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## **17. General Exception**

17.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan then, subject to paragraph 18 of these Rules (special urgency), the decision may still be taken if:-

- (1) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;

- (2) the Proper Officer has informed, by notice in writing, the Chair of the relevant Scrutiny Committee whose Terms of Reference include responsibility for scrutiny of executive decisions (or in his/her absence the Vice-Chair and one other Member of that Committee belonging to a political group that is not the largest party represented within the Cabinet) of the matter on which the decision is to be made;
- (3) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- (4) at least 5 clear working days have elapsed since the Proper Officer complied with (1) and (2) above.

17.2 Where such a decision is taken collectively, it must be taken in public unless it is likely that confidential or exempt information will be disclosed.

## **18. Special Urgency**

- 18.1 If paragraph 17 of these Rules (general exception) cannot be followed by virtue of the date by which a decision must be taken, then the decision can only be taken if the decision-taker (if an individual) or the Leader of the Executive (or in his/her absence another Member of the Cabinet), first obtains the consent of the Chair of a relevant Scrutiny Committee whose Terms of Reference include responsibility for the scrutiny of executive decisions, that the taking of the decision cannot be reasonably deferred.
- 18.2 In the absence of the Chair, the consent of the Vice-Chair and one other Member of that Committee (belonging to a political group that is not the largest party represented within the Cabinet) shall be required.
- 18.3 However, if the Chair (or in his/her absence the Vice-Chair and other Members as detailed in paragraph 18.2 above) does not agree that the decision may reasonably be regarded as urgent in the circumstances, then the decision cannot be taken without five clear days' notice being given as required under Article 13.04(7)(a) of this Constitution.

## **19. Report to Council**

### **19.1 When a Scrutiny Committee can require a Report**

19.1.1 If a Scrutiny Committee is of the opinion that a Key Decision has been taken which was not:-

- (1) included in the Forward Plan; or
- (2) the subject of the general exception procedure in paragraph 17 above; or
- (3) the subject of an agreement as set out paragraph 18 of these Rules (special urgency); then

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies.



19.1.2 The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the committee when so requested by the Chair or by any 5 Members of the committee.

19.1.3 Alternatively, the requirement to report may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

## **19.2 Cabinet's Report to Council**

19.2.1 If a Scrutiny Committee requires a report under paragraph 19.1 of these Rules, the Cabinet will prepare a report for submission to the next available meeting of the Council.

19.2.2 However, if the next meeting of the Council is within 7 days of receipt of the written notice, or of the resolution of the Committee, then the report may be submitted to the meeting after that.

19.2.3 The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader of the Executive is of the opinion that it was not a Key Decision, the reasons for that opinion.

## **19.3 Annual Reports on Special Urgency Decisions**

19.3.1 In any event, the Proper Officer will annually submit a report informing the Council of the Cabinet decisions taken in the circumstances set out in paragraph 18 of these Rules (special urgency) in the preceding year.

19.3.2 The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **20. Record of Decisions**

20.1 After any meeting of the Cabinet or any of its committees, whether held in public or private, the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable.

20.2 The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **21. Decisions by individual Members of the Cabinet**

### **21.1 Reports intended to be taken into Account**

Where an individual Member of the Cabinet (or an officer acting under delegated powers) receives a report which s/he intends to take into account in making any Key Decision, then s/he will not make the decision until at least 5 clear days after receipt of that report.

## **21.2 Provision of copies of reports to Chairs of Scrutiny Committees**

On giving of such a report to an individual decision-maker in respect of a Key Decision, the person who prepared the report will give a copy of it to the Proper Officer, who will then provide a copy to the Chair of every relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

## **21.3 Record of individual decisions**

21.3.1 As soon as reasonably practicable after:-

- (1) a Cabinet decision has been taken by an individual Member of the Cabinet; or
- (2) a Key Decision has been taken by an officer,

the decision-taker will instruct the Proper Officer to prepare a Decision Notice.

21.3.2 This Decision Notice will include:-

- (1) a record of the decision;
- (2) a statement of the reasons for it and;
- (3) any alternative options considered and rejected.

21.3.3 The provisions of paragraphs 9 and 10 of these Rules (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Cabinet. This does not require the disclosure of exempt or confidential information, or advice from a political assistant.

## **22. Access to documents by Scrutiny Committees**

### **22.1 Rights to copies**

Subject to paragraph 22.2 below, a Scrutiny Committee (including any sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:-

- (1) any business transacted at a public or private meeting of the Cabinet or its committees; or
- (2) any decision taken by an individual Member of the Cabinet.

### **22.2 Limit on rights to copies**

A Scrutiny Committee will not be entitled to:-

- (1) any document that is in draft form;

- (2) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise, in which case any such information shall be kept confidential; or
- (3) the advice of a political adviser.

## **23. Additional Rights of Access for Members**

### **23.1 Material relating to previous business**

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and which contains material relating to any business previously transacted at a private meeting of the Cabinet, unless either (1) or (2) below applies:-

- (1) it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information set out in paragraph 12.4.1 of these Rules; or
- (2) it contains the advice of a political adviser.

### **23.2 Material relating to Key Decisions**

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any Key Decision unless either paragraph (1) or (2) in paragraph 23.1 above applies.

### **23.3 Nature of rights**

These rights of a Member are additional to any other right s/he may have.

## Annex 2.3: Policy Framework and Budget Procedure Rules

### 1. The Framework for Cabinet Decisions

The Council will be responsible for the adoption of its Policy Framework and Budget as set out in Article 4 of the Council's Constitution. Once a Policy Framework or a Budget is in place, it will be the responsibility of the Cabinet to implement it.

### 2. Process for Developing the Policy Framework and Budget

#### 2.1 Publication of Timetables

2.1.1 The Cabinet will publicise timetables for making proposals to the Council for the adoption or amendment (other than 'in-year' amendments made under paragraph 2.6 below) of:-

- (1) any plan or strategy that forms part of the Policy Framework, and its arrangements for consultation after publication of those initial proposals;
- (2) the Council's Budget, and its arrangements for consultation on the Cabinet's proposals.

2.1.2 The publicity for these timetables may include publication at the Council's offices and on its web-site; a notice issued to local newspapers circulating within the Borough; and inclusion within the Forward Plan. The Chairs of Scrutiny Committees will also be notified.

#### 2.2 Consultation on Proposals

2.2.1 The consultation period will in each instance be:-

- (1) not less than 4 weeks in respect of proposals relating to plans or strategies forming part of the Policy Framework; and
- (2) not less than 2 weeks in respect of proposals relating to the annual Budget.

2.2.2 At the end of the relevant period, the Cabinet will draw up firm proposals having regard to the responses to that consultation.

2.2.3 If a Scrutiny Committee or Cabinet Committee wishes to offer comments or recommendations to the Cabinet then it may do so at any time after the Cabinet has published its time table for making proposals as set out in sub-paragraph 2.1.1 above and before the close of the period allowed for consultation as set out in paragraph 2.2.1 above. If such comments or recommendations are made before the start of the consultation period, this will not prevent the making of further comments once the Cabinet has published its proposals.

## **2.3 Submission of Proposals to the Council**

- 2.3.1 The Cabinet will take all responses, including those from Scrutiny Committees or Cabinet Committees, into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's responses to them.
- 2.3.2 Once the Cabinet has approved the firm proposals, the Proper Officer will refer them at the earliest opportunity to the Council for decision.

## **2.4 Consideration of the Policy Framework and Budget by the Council**

- 2.4.1 In reaching a decision on the Cabinet's proposals relating to any plan or strategy that forms part of the Policy Framework, the Council may:-
- (1) adopt the Cabinet's proposals;
  - (2) take an 'in principle' decision either to refer them back to the Cabinet for further consideration; or amend them, or substitute its own proposals in their place.
- 2.4.2 If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an 'in-principle decision'. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

## **2.5 Conflict Resolution Procedure**

- 2.5.1 An 'in-principle' decision of the Council under paragraph 2.4 above will automatically become effective 5 working days from the date of the Council's decision, unless the Leader of the Executive (or in his/her absence another Member of the Cabinet) informs the Proper Officer in writing within those 5 working days that s/he objects to the decision becoming effective and provides reasons why.
- 2.5.2 In that case, the Proper Officer will call a meeting of the Council to be held within a further 7 working days at which the Council will be required to re-consider its decision. The Leader of the Executive will make a written submission which will be circulated to all Members of the Council at least 3 working days before the date set for this meeting of the Council.
- 2.5.3 At the meeting convened under paragraph 2.5.2 above the Council may then:-
- (1) approve the Cabinet's proposals by a simple majority of votes cast at the meeting; or
  - (2) approve by a simple majority a different decision which does not accord with the Cabinet's proposals.

## **2.6 In-Year Changes**

- 2.6.1 In approving the Policy Framework and Budget, the Council will also specify the extent of in-year changes to the Policy Framework and Budget which may be undertaken by the Cabinet, in accordance with paragraph 5 (virement) and paragraph 6 (in-year changes) of these Policy Framework and Budget Procedure Rules.
- 2.6.2 Any other changes to the Policy Framework and Budget are reserved to the Council.

## **3. Decisions outside the Policy Framework or Budget**

- 3.1 Subject to the provisions of paragraph 5 below (virement), the Cabinet, committees of the Cabinet, individual Members of the Cabinet and any officers, Area Committees or joint arrangements discharging Cabinet functions may only take decisions which are in line with the Policy Framework and Budget.
- 3.2 If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by the Council then, subject to paragraph 4 below (urgent decisions outside the Policy Framework and Budget), that decision may only be taken by the Council.
- 3.3 If the Cabinet, committees of the Cabinet, individual Members of the Cabinet and any officers, Area Committees or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget.
- 3.4 If the advice of either of those officers is that the decision would not be in line with the existing Policy Framework and/or Budget, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 below (urgent decisions outside the Policy Framework and Budget) will apply.

## **4. Urgent decisions outside the Policy Framework or Budget**

- 4.1 The Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or officers, Area Committees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by the Council if the decision is a matter of urgency.
- 4.2 However, the decision may only be taken as a matter of urgency if:-
- (1) it is not practical to convene a quorate meeting of the full Council; and
  - (2) the Chair of a relevant Scrutiny Committee, whose Terms of Reference include scrutiny of executive decisions, agrees that the decision is a matter of urgency.

- 4.3 The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 4.4 In the absence of the Chair, the consent of the Vice-Chair and one other Member of that Committee (belonging to a political group that is not the largest party represented within the Cabinet) shall be required.
- 4.5 Following the decision, the decision-taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **5. Virement**

- 5.1 A virement is defined as the ability to transfer sums from one budget head to another or to establish a new budget head in order to meet planned expenditure needs in accordance with policies and priorities of the service.
- 5.2 The Council will have the following main Budget heads to account for income and expenditure:-
  - 5.2.1 General Fund Capital Account – to account for all capital expenditure and receipts relating to General Fund services;
  - 5.2.2 Housing Capital Account - to account for all capital expenditure and receipts relating to Housing Revenue Account property and services;
  - 5.2.3 General Fund Revenue Account - to account for all revenue expenditure and income relating to General Fund services;
  - 5.1.4 Housing Revenue Account - to account for all revenue expenditure and income relating to Housing Revenue Account property and services.
- 5.3 Steps taken by the Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or officers, Area Committees or joint arrangements discharging Cabinet functions to implement Council policy shall not exceed those Budgets allocated to each budget head.
- 5.4 However, such bodies or individuals shall be entitled to vire expenditure or income within the budget heads set out in paragraph 5.1 above in accordance with the Financial Procedure Rules set out in Annex 2.6 to this Constitution.

## **6. In-year Changes to the Policy Framework**

- 6.1 The responsibility for agreeing the Policy Framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or officers, Area Committees or joint arrangements discharging Cabinet functions must be consistent with it.

- 6.2 Subject to paragraphs 3 and 4 of these Procedure Rules (decisions and urgent decisions outside the Policy Framework and Budget) changes to any policy or strategy which forms part of the Policy Framework may only be made by those bodies or individuals where:-
- (1) it is necessary to ensure compliance with the law, ministerial direction or government guidance;
  - (2) where the existing policy or strategy document is silent on the matter under consideration;
  - (3) it is necessary to resolve an inconsistency or ambiguity within or between existing policy or strategy documents and the change will not have an effect which in itself would amount to a Key Decision as defined in Article 13.04 of the Constitution;
  - (4) it concerns policy in relation to property held for Housing Revenue Account purposes, where a majority of those Council tenants affected agree with the proposed change;
  - (5) it will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint which has been imposed by the full Council.

## **7. Call-in of decisions outside the Policy or Budget Framework**

- 7.1 Where a Scrutiny Committee whose Terms of Reference include scrutiny of executive decisions is of the opinion that a decision taken by the Cabinet (or by any body or individual to whom that function has been delegated by the Cabinet) is, or if taken would be:-
- (1) contrary to the Policy Framework; or
  - (2) contrary to, or not wholly in accordance with, the Council's Budget,
- then it shall seek advice from the Monitoring Officer and/or the Chief Financial Officer.
- 7.2 In respect of functions that are the responsibility of the Cabinet, the Monitoring Officer and/or the Chief Financial Officer will then report to the Cabinet, with a copy being sent to every Member of the Council.
- 7.3 Regardless of whether the decision is one delegated by the Cabinet or not, the Cabinet must then meet to decide what action to take in respect of the report of the Monitoring Officer and/or Chief Finance Officer.
- 7.4 The Cabinet will then prepare a report:-
- (1) to the Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure; or
  - (2) to the Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.



- 7.5 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is, or would be, contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget, the Scrutiny Committee may refer the matter to the full Council.
- 7.6 In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The matter will then be considered at the next ordinary meeting of the Council.
- 7.7 However if, in the opinion of the Leader of the Executive, or in his/her absence the Mayor (or in the absence of the Mayor, the Deputy Mayor), implementation of the decision cannot reasonably be deferred until the next ordinary meeting of the Council, the Proper Officer shall summon the Council to meet within 7 working days of a request to do so by the Leader of the Executive (or the Mayor/Deputy Mayor as the case may be).
- 7.8 At the meeting, the Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may then either:-
- (1) endorse a decision or proposal of the Cabinet or decision-taker as falling within the existing Policy Framework and Budget. In this case no further action is required, except that the decision of the Council will be minuted and circulated to all councillors in the normal way; or
  - (2) amend the Council's financial regulations or policy, or the Policy Framework, or the Budget as the case may be to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required except that the decision of the Council will be minuted and circulated to all councillors in the normal way; or
  - (3) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing Framework and/or Budget to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Financial Officer.

## **Annex 2.4: Cabinet Procedure Rules**

### **1. Operation of the Cabinet**

#### **1.1 Bodies and Persons Authorised to Make Decisions**

The Leader of the Executive may make arrangements for the Executive functions to be discharged by:-

- (1) the Cabinet as a whole;
- (2) a Committee of the Cabinet;
- (3) an individual Member of the Cabinet;
- (4) an Officer of the Council;
- (5) an Area Committee;
- (6) Joint Arrangements; or
- (7) another local authority.

#### **1.2 Delegation by the Leader or Cabinet**

1.2.1 The Proper Officer will maintain a written record of the current delegations made by the Leader or Cabinet, which shall be included in Annex 1 to this Constitution.

1.2.2 Annex 1 will contain the following information about Executive functions:-

- (1) the names of the Members appointed to the Cabinet;
- (2) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (3) the terms of reference and constitution of such committees of the Cabinet as the Cabinet appoints and the names of Cabinet Members appointed to them;
- (4) the nature and extent of any delegation of Executive functions to any Area Committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee; and
- (5) the nature and extent of any delegation of Executive functions to officers of the Council with details of any limitations on those delegations, and the title of the officer to whom the delegation is made.

### **1.3 Sub-delegation of Cabinet Functions**

- 1.3.1 Where the Cabinet, a committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive function, they may delegate further to an area committee, joint arrangements or to an officer.
- 1.3.2 For the avoidance of doubt, in cases where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the body or person who granted the delegation.

### **1.4 The Council's Scheme of Delegation Relating to Executive Functions**

- 1.4.1 Following the Annual Meeting of the Council, the Leader will re-affirm (or otherwise amend) the Scheme of Delegation relating to the Executive functions as set out in Annex 1.6 to this Constitution.
- 1.4.2 The Leader may amend the Scheme of Delegation relating to Executive functions at any time during the year.
- 1.4.3 Following a decision of the Leader to do so, the Proper Officer will, as soon as reasonably practicable, inform the person, body or committee concerned in writing.
- 1.4.4 The Proper Officer will then present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- 1.4.5 Where the Leader seeks to withdraw a delegation from a committee, that withdrawal will be deemed to take effect when the Proper Officer has informed the Chair of that Committee in writing.

### **1.5 Conflicts of Interest**

- 1.5.1 If the exercise of an Executive function has been delegated to a committee of the Cabinet, or to an individual Member then, should a conflict of interest arise, the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Annex 3.2 to this Constitution.
- 1.5.2 Decisions relating to the specific activities of the Local Authority Trading Company, Rosherville Limited, may give rise to a conflict of interest for individual Cabinet Members. Should a conflict of interest arise, the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Annex 3.1 to this Constitution.

### **1.6 Meetings of the Cabinet: Time and Place**

- 1.6.1 The Cabinet will meet at least 10 times per year at times to be agreed by the Cabinet.

1.6.2 Meetings of the Cabinet will be held at the Civic Centre, Windmill Street, Gravesend or (in the event that these premises are unavailable [or if other circumstances make it desirable to meet elsewhere]) at another location to be agreed by the Leader of the Executive.

## 1.7 Meetings of the Cabinet: Public or Private

1.7.1 Meetings of the Cabinet at which decisions are to be taken will be held in public except when:-

- (1) confidential or exempt information is to be discussed; or
- (2) the Leader of the Executive considers it would be in the public interest to meet in private, in which case s/he will state the reasons for doing so.

1.7.2 Meetings held solely for the purpose of briefing Members of the Cabinet will be held in private.

## 1.8 Quorum

The quorum for a meeting of the Cabinet, or a committee of it, shall be three Members of the Cabinet (including the Leader).

## 1.9 Decision taking by the Cabinet

1.9.1 Cabinet decisions taken by the Cabinet as a whole will be made at a meeting convened in accordance with the Access to Information Procedure Rules set out in Annex 2.2 to this Constitution.

1.9.2 Where Cabinet decisions are delegated to a committee of the Cabinet, the Procedure Rules applying to Cabinet decisions taken by the committee will be the same as those applying to decisions taken by the Cabinet as a whole.

## 2. The Conduct of Cabinet Meetings

### 2.1 Chair

If the Leader of the Executive is present at any meeting of the Cabinet or its committees s/he will preside. In his/her absence, then the Deputy Leader will preside. In the absence of the Deputy Leader, the meeting will be chaired by a person appointed to do so by those Members of the Cabinet present.

### 2.2 Attendance

The Rules governing who may attend meetings of the Cabinet are set out in the Access to Information Procedure Rules in Annex 2.2 to this Constitution.

### 2.3 Business to be carried out

2.3.1 At each meeting of the Cabinet the following business will be conducted:-

- (1) signature of the minutes of the last meeting;
- (2) declarations of interest, if any;
- (3) matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with:-
  - (a) the Scrutiny Procedure Rules set out in Annex 2.5 to this Constitution; or
  - (b) the Policy Framework and Budget Procedure Rules set out in Annex 2.3 to this Constitution.
- (4) consideration of reports from Scrutiny Committees; and
- (5) matters set out in the agenda for the meeting.

2.3.2 Matters set out in the agenda shall indicate those items of business that are Key Decisions and which are not in accordance with the Access to Information Procedure rules set out in Annex 2.2 to this Constitution.

## 2.4 Consultation

2.4.1 All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals for changes to the Policy Framework and Budget (other than in accordance with paragraphs 5 [virement] and 6 [in-year changes] of the Policy Framework and Budget Procedure Rules) must contain details of the nature and extent of consultation with:-

- (1) other bodies and groups of people who may be affected by the proposals; and
- (2) the relevant Scrutiny Committee and Cabinet Committee, and the outcome of that consultation.

2.4.2 Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Placing Items on the Cabinet Agenda

### 2.5.1 By the Leader of the Executive

The Leader of the Executive may put on the agenda for meetings of the Cabinet any matter which s/he wishes, whether or not authority has been delegated to the Cabinet, a committee of it or to any Member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

**2.5.2 By the full Council or by a Scrutiny Committee**

The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where either the full Council or a relevant Scrutiny Committee has resolved that an item be considered by the Cabinet.

**2.5.3 By individual Members of the Council**

Any Member of the Council may ask the Leader of the Executive to put an item on the agenda of a meeting of the Cabinet for consideration and, if the Leader agrees, that item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered, who will be invited to attend the meeting whilst that item is discussed, whether or not it is a public meeting.

**2.5.4 By the Statutory Officers**

- (1) the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a meeting of the Cabinet and may require the Proper Officer to call such a meeting in pursuance of their statutory duties.
- (2) in other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a meeting of the Cabinet.
- (3) if there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda under paragraph 2.5.5(1) or (2) above may also require that a meeting be convened at which the matter will be considered.

## Annex 2.5: Scrutiny Procedure Rules

### 1. Arrangements for Scrutiny Committees

- 1.1 At its Annual Meeting the Council will appoint at least one Scrutiny Committee as set out in Article 6 of this Constitution and will fill any vacancies arising in the membership thereof as soon as reasonably practicable after they arise.
- 1.2 No more than ten Members may be appointed by the Council to any Scrutiny Committee. Additionally, up to two non-voting persons may be co-opted by the Council to serve on each Scrutiny Committee.

### 2. Sub-Committees

- 2.1 Scrutiny Committees may appoint sub-committees and may discontinue any of these sub-committees and/or appoint alternative or additional sub-committees, subject to there being a maximum of three sub-committees of any one Scrutiny Committee at any one time. Scrutiny Committees may also amend the terms of reference of their sub-committees as appropriate.
- 2.2 Only Members of the appointing Scrutiny Committee may be appointed to such sub-committees.

### 3. Cabinet Committees

Scrutiny Committees may invite any Cabinet Committees appointed by the Cabinet to offer comments and make recommendations in relation to matters that the Scrutiny Committee may have under consideration.

### 4. Business

Each Scrutiny Committee will:-

- (1) approve an annual work programme, including the programme of any sub-committees it appoints so as to ensure that the committee's and sub-committees' time is effectively and efficiently utilised;
- (2) where matters fall within the remit of more than one of its sub-committees, determine which of those sub-committees will assume responsibility for any particular issue;
- (3) put in place a system to ensure that referrals from scrutiny to the Cabinet, either by way of report or for reconsideration, are managed efficiently;
- (4) if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business then, at the request of the Cabinet, to make decisions about the priority of referrals made.

## **5. Eligibility to serve on Scrutiny Committees**

- 5.1 All councillors except the Mayor and Members of the Cabinet may be Members of a Scrutiny Committee.
- 5.2 However, no Member may be involved in scrutinising a decision in which s/he has been directly involved.

## **6. Co-optees**

- 6.1 A Scrutiny Committee or sub-committee shall be entitled to request the Council to appoint up to two people as non-voting co-optees.
- 6.2 A Scrutiny Committee will use its discretion to determine whether to co-opt other councillors, or any person with specific expertise, in a non-voting capacity.

## **7. Meetings of Scrutiny Committees**

- 7.1 Each Scrutiny Committee appointed by the Council will hold at least five ordinary meetings in each Municipal Year.
- 7.2 In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the Chair of the committee, by any three Members of the committee or by the Proper Officer if s/he considers it necessary or appropriate.

## **8. Quorum**

The quorum for a Scrutiny Committee shall be one quarter of its membership, and in any event not less than three Members, as set out in paragraph 11 of Annex 2.1.

## **9. Chairing Scrutiny Committee Meetings**

- 9.1 The Council may appoint any councillor who is not a Member of the Cabinet to be Chair of any Scrutiny Committee.
- 9.2 Chairs of any sub-committees appointed by a Scrutiny Committee will be drawn from among the councillors sitting on the appointing Scrutiny Committee and, subject to this requirement, the appointing Scrutiny Committee may appoint such person as it considers appropriate as Chair.

## **10. Work Programme**

- 10.1 The Overview Scrutiny Committee will establish and maintain a continuing programme of Topic Reviews. The subjects of Topic Reviews shall be decided by the Overview Scrutiny Committee taking into account suggestions from Cabinet, Cabinet Committees, councillors, officers and the public. The work programme will reflect the corporate priorities of the Council.



- 10.2 The work programme should be based on the principle of equal shares being accorded to each political group represented on the committee or sub-committee when selecting the issues to be examined, the amount of time to be allocated to those issues, the Cabinet Members, Chief Officers and other witnesses to be called and the opportunities given to Members to question them.

## **11. Scrutiny Committee Agendas**

### **11.1 Inclusion of Items at the Request of Members of Scrutiny Committees**

Any member of a particular Scrutiny Committee or sub-committee shall be entitled to give notice to the Proper Officer that s/he wishes an item relevant to the functions of that committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

### **11.2 Inclusion of Items at the Request of the Council or the Cabinet:-**

11.2.1 The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or the Council.

11.2.2 The Council and/or the Cabinet shall consider the report of the Scrutiny Committee within two months of receiving it.

### **11.3 Consideration of Business**

Scrutiny Committees and sub-committees shall consider the following business:-

- (1) minutes of the last meeting;
- (2) declarations of interest (including whipping declarations under paragraph 19.2 below);
- (3) consideration of any matter referred to the committee for a decision in relation to the call-in of a decision;
- (4) responses of the Cabinet to reports of the Scrutiny Committee; and
- (5) the business otherwise set out on the agenda for the meeting.

## **12. Scrutiny Reviews of Policy**

### **12.1 Policy Framework and Budget**

The role of the Scrutiny Committees in relation to the development of the Council's Policy Framework and Budget is set out in detail in the Policy Framework and Budget Procedure Rules.

## 12.2 Other Policy Matters

- 12.2.1 In relation to the development of the Council's approach to other matters not forming part of its Policy Framework and Budget, Scrutiny Committees may, within their terms of reference, undertake reviews of the Council's policies and their application.
- 12.2.2 In so doing, Scrutiny Committees or sub-committees shall seek the advice of Cabinet Committee in relation to enquiries and investigations into matters within their terms of reference.
- 12.2.3 Arising from such enquiries and investigations, Scrutiny Committees may also make proposals for policy improvements and developments to the Cabinet.

## 12.3 Conduct of Scrutiny Reviews

- 12.3.1 Scrutiny Committees, in the course of enquiries and investigations into matters within their terms of reference and subject to the budgets allocated to them by the Council for the purpose, may appoint advisers and assessors to assist them in this process, go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- 12.3.2 Scrutiny Committees may also ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## 13. Reports from Scrutiny Committees

### 13.1 Formulation of Recommendations

- 13.1.1 Following completion of its enquiries into a matter before it, a Scrutiny Committee or sub-committee shall ask all Cabinet Members to withdraw from the meeting whilst it considers what conclusions should be reached and recommendations made. Officers will remain but will not normally speak unless it appears likely that the committee will propose action on which advice has not previously been sought or should be given in order to protect the Council's interests.
- 13.1.2 Once it has formed recommendations following a scrutiny review (whether that review has been carried out by the full Scrutiny Committee or by a sub-committee), a Scrutiny Committee will prepare a formal report and submit it to the Proper Officer.
- 13.1.3 The report of a sub-committee of a Scrutiny Committee may not be submitted to the Proper Officer unless it has first been considered and adopted by the main Scrutiny Committee concerned.
- 13.1.4 If a Scrutiny Committee cannot agree on one single final report to the Council or the Cabinet (as appropriate), then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet together with the majority report.

13.1.5 A Scrutiny Committee or sub-committee may not criticise or comment adversely on any Officer of the Council by name.

### **13.2 Submission of Recommendations to the Cabinet and Council**

The recommendations of a Scrutiny Committee will then be submitted by the Proper Officer for consideration by:-

- (1) the Cabinet (if the recommendations relate to matters which are Cabinet functions and are consistent with the existing Policy Framework and Budget); or
- (2) the Council (if the recommendation would require a departure from, or a change to, the agreed Policy Framework and Budget, and/or if the recommendations relate to matters which are not Cabinet functions).

## **14. Consideration of Scrutiny Recommendations**

### **14.1 Period for Consideration**

The Council or Cabinet (as the case may be) shall consider the report of a Scrutiny Committee within two months of it being adopted by that Scrutiny Committee. If there is not an ordinary meeting of the Council or Cabinet scheduled to take place within the next two months, the report shall be considered at the next scheduled meeting.

### **14.2 Allocation of Recommendations to the Council and/or the Cabinet**

Once a Scrutiny Committee has completed its deliberations and adopted its final report, the Proper Officer will allocate the report to the Cabinet and/or the Council for consideration, according to whether or not it relates to Cabinet functions and would or would not have implications for the Council's Policy Framework and Budget.

### **14.3 Recommendations referred to the Council**

14.3.1 If the Proper Officer refers a report to the Council, s/he will also notify the Leader of the Executive that the matter is to be referred to the Council. The Cabinet will then have four weeks in which to respond to the report, and the Council shall not consider the report within that period.

14.3.2 When the Council does meet to consider any referral from a Scrutiny Committee on a matter which would impact on the Policy Framework and Budget, it shall also consider the response of the Cabinet to the Scrutiny Committee's report.

### **14.4 Recommendations on matters delegated to individual Members of the Cabinet**

14.4.1 Where a Scrutiny Committee adopts recommendations for consideration by the Cabinet in relation to a matter where the Cabinet has delegated decision-making power to individual Member of the Cabinet, then the Proper Officer shall also notify him/her of the recommendations.

14.4.2 The Member with delegated decision-making power must consider the recommendation(s) and respond in writing to the Scrutiny Committee within four weeks of being notified of them. A copy of his/her written response to it shall be sent to the Leader of the Executive. The Member concerned will also attend a future meeting of the Scrutiny Committee to present their response.

#### **14.5 Consultation on Key Decisions**

Scrutiny Committees will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation and (in addition to any reports arising from scrutiny reviews, and subject to the Procedure Rules relating to Urgent Key Decisions) will be able to respond in the course of the Cabinet's consultation process in relation to any Key Decision.

### **15. Rights of Scrutiny Committee Members to Documents**

15.1 In addition to their rights as councillors, Members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Annex 2.2 to this Constitution.

15.2 Nothing in paragraph 15.1 prevents more detailed or informal liaison between the Cabinet and a Scrutiny Committee in relation to a particular matter under consideration.

### **16. Giving Evidence by Members and Officers**

#### **16.1 Requirement to appear and give evidence**

Within its terms of reference, a Scrutiny Committee or sub-committee may scrutinise and review the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Chair of a Committee, the Head of Paid Service and/or any Chief Officer to attend before it to give evidence in relation to matters within their remit. It is the duty of those persons to attend if so required.

#### **16.2 Giving notice to appear**

16.2.1 Where any Member or officer is required to attend a Scrutiny Committee under paragraph 16.1 above, the Chair of that committee will inform the Proper Officer. The Proper Officer shall inform the Member or officer in writing, giving at least ten working days' notice of the meeting at which s/he is required to attend.

16.2.2 This notice will state the nature of the item on which s/he is required to attend to give evidence and whether any papers are required to be produced for the committee.

16.2.3 Where the evidence to be given to the committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation and submission of that documentation.

### 16.3 Inability to Appear

Where, in exceptional circumstances, the Member or officer concerned is unable to attend on the required date, then the Scrutiny Committee shall, in consultation with that Member or officer and with the Proper Officer, arrange an alternative date for attendance.

### 16.4 Questioning

16.4.1 The Chair of a Scrutiny Committee may permit a Member who is not a Member of that committee to speak on a particular matter and to ask questions of witnesses if the item under consideration is one which has an impact on the Ward represented by that Member that is both peculiar to that Ward and significant in nature.

16.4.2 Members should give notice prior to the meeting of the information they will be seeking from witnesses. If more details are needed they should ask the Cabinet Member, Committee Chairs or Chief Officer concerned to submit the information requested in writing as soon as practicable.

16.4.3 All questioning shall be conducted with courtesy and with due regard for the individual rights of those being questioned.

## 17. Attendance by Others

17.1 A Scrutiny Committee may invite people other than those people referred to in paragraph 16.1 above to address it, discuss issues of local concern and/or answer questions. Such persons may include local residents or businesses, those with an interest in, or special knowledge of, the matter under consideration, and Members and officers in other parts of the public sector.

17.2 Such persons cannot be required to appear before a Scrutiny Committee or sub-committee or to answer questions, and attendance is entirely at the invitee's discretion.

## 18. Call-in of Cabinet Decisions

### 18.1 Publication of Decision Notices

When:

- (1) a decision is made by:-
  - (a) the Cabinet;
  - (b) an individual Member of the Cabinet; or
  - (c) a committee of the Cabinet; or
- (2) a Key Decision is made by:-
  - (a) an officer with delegated authority from the Cabinet; or
  - (b) an Area Committee; or

- (c) under joint arrangements,

a Decision Notice shall be published (including where possible by electronic means) and shall be available at the main offices of the Council within 2 working days of a decision being made, unless exceptional circumstances prevent this.

## 18.2 Notification to Chairs of Scrutiny Committees

18.2.1 The Proper Officer will send a copy of a Decision Notice to the Chairs of all Scrutiny Committees at the same time as publication under paragraph 18.1 above.

18.2.2 Where the Chair of a Scrutiny Committee belongs to the same political group as any Member of the Cabinet, copies of all such Decision Notices will also be sent to all other Members of that committee at the same time.

## 18.3 Contents of Notices

A Decision Notice will contain the date on which decisions are made, the body or person making them and a summary of those decisions.

## 18.4 Calling-in Process

18.4.1 If during the period of 5 working days following the date of the decision, the Committee Chair, Vice-Chair or any three Members of a relevant Scrutiny Committee request it, in the manner prescribed in 18.4.3 below, the Proper Officer shall call-in a decision for scrutiny by the committee and notify the decision-making person or body of the call-in.

18.4.2 The Proper Officer shall, where possible after consultation with the Chair of the relevant Scrutiny Committee, call a meeting of the committee on such date as s/he may determine. The meeting shall be summoned to take place within 10 working days of the call-in request being made to the Proper Officer.

18.4.3 Requests for call-in may either be made:-

- (1) On the electronic call-in form available on the Council's intranet, or
- (2) in writing specifying the matter to be called in and the reasons for the call-in.

## 18.5 Options for referring back decisions

If, having considered the decision, the relevant Scrutiny Committee is still concerned about it, then it may either:-

- (1) refer the decision back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns; or

- (2) refer the matter to the full Council.

#### **18.6 Referral back from Scrutiny Committee to Decision-Maker**

18.6.1 If the decision is referred back to the decision-making person or body, that person or body shall then reconsider the decision within a further ten working days, and either amend the decision or not, before adopting a final decision.

18.6.2 However, if the relevant Scrutiny Committee, following a request for call-in being made to the Proper Officer:-

- (1) does not hold a quorate meeting within the period set out in paragraph 18.4.2 above; or
- (2) does meet, but does not refer the matter back to the decision-making person or body.

the decision shall take effect at 00.01 a.m. on the day following the date set for the Scrutiny Committee meeting, or on the expiry of the further 10 working day period set out in paragraph 18.4.2 above, whichever is the earlier.

#### **18.7 Referral from Scrutiny Committee to the Full Council**

18.7.1 If a matter is referred to the full Council, the Proper Officer will summon a meeting of the Council to take place within 10 working days of the decision to refer the matter being made by the relevant Scrutiny Committee.

18.7.2 If the Council does not object to a decision which has been referred to it by a Scrutiny Committee, then no further action is necessary and the decision will become effective in accordance with paragraph 18.7.6 below.

18.7.3 However, if the Council does object, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall then choose whether to amend the decision or not before reaching a final decision and implementing it.

18.7.4 Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting of the Cabinet will be convened to reconsider its decision within ten working days of the Council's request.

18.7.5 Where the decision was made by an individual, the individual will reconsider his/her decision within ten working days of the Council's request.

18.7.6 However, if the Council:-

- (1) does not hold a quorate meeting within the period set out in 18.7.1 above; or if it

- (2) does meet, but does not refer the decision back to the decision-making body or person,

the decision shall take effect at 00.01 a.m. on the day following the date set for the Council meeting, or on the expiry of the further 10 working day period set out in 18.7.1 above, whichever is the earlier.

## **18.8 Call-in by an Area Committee**

18.8.1 Where an executive decision has been taken by an Area Committee under powers delegated to it by the Cabinet, then the right of call-in to a relevant Scrutiny Committee for consideration shall extend to any other Area Committee which resolves to refer a decision which has been made but not implemented.

18.8.2 An Area Committee may only request the Proper Officer to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates.

18.8.3 All other provisions relating to call-in shall apply as if the call-in had been exercised by Members of a relevant Scrutiny Committee.

## **18.9 Call-in and Urgency**

18.9.1 The call-in procedure set out above shall not apply where the executive decision being taken is urgent.

18.9.2 A decision will be urgent if any delay likely to be caused by the call-in process would be:-

- (1) seriously prejudicial to the public interest or to the Council's interest; and/or
- (2) likely to cause unreasonable suffering or distress to individual citizens or groups of citizens.

18.9.3 The record of the decision, and the Decision Notice by which it is made public, shall state whether, in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor, in consultation with the Head of Paid Service (or his/her nominee), must agree both that:-

- (1) the decision proposed is reasonable in all the circumstances; and that
- (2) it should be treated as a matter of urgency.

18.9.4 In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of the Mayor and the Deputy Mayor, the Head of Paid Service or his/her nominee's consent shall be required.

18.9.5 Decisions taken as a matter of urgency under the provisions of this sub-paragraph 18.9 must be reported to the next available meeting of the Council, together with the reasons for urgency.



#### **18.10 Annual Review of Call-in and Urgency**

18.10.1 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

18.10.2 An annual report on the call-ins made through the year shall be considered by the Scrutiny Committee.

#### **18.11 Following Resolution of Topic Review**

18.11.1 At the next meeting following a resolution the Scrutiny Committee shall be informed of the response to its recommendations.

18.11.2 Six months after a Topic Review is considered, an agenda item shall be listed for the next available Scrutiny Committee to receive a report on actions completed, their outcomes and the status of actions in progress.

### **19. The Party Whip**

#### **19.1 Definition**

The 'Party Whip' shall mean:-

"Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council, the Cabinet or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should s/he speak or vote in any particular manner."

#### **19.2 Declaration of Party Whip at Scrutiny**

19.2.1 At any meeting of a Scrutiny Committee or any of its sub-committees, when considering any matter in respect of which a Member of a Scrutiny Committee is subject to a party whip, that Member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter.

19.2.2 The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **20. Matters within remits of more than one Scrutiny Committee**

Where a Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Committee, then the committee conducting the review shall invite the Chair of the other committee (or his/her nominee) to attend its meetings when the matter is being reviewed.

## **21. Councillor Call for Action**

### **21.1 Background**

21.1.1 The Councillor Call for Action enables any member of the council to refer to an overview and scrutiny committee any local government matter which affects their ward. It is a measure of last resort and only to be implemented once every other method of resolving the issue has been exhausted.

21.1.2 The detailed provisions relating to the operation of the Councillor Call for Action are set out in a protocol maintained by the Scrutiny Services Officer.

### **21.2 Councillor Call for Action**

21.2.1 The Scrutiny Services Officer will receive any referrals for Councillor Call for Action, which shall be made on a Councillor Call for Action request form accompanied by all necessary evidence.

21.2.2 The Monitoring Officer will assess the issue to ensure that it is not a matter excluded from referral to the Overview Scrutiny committee and with the Scrutiny Services Officer assess whether the member has fulfilled the obligation to attempt to resolve the issue themselves. In the event of any dispute the Chief Executive will be the final arbiter on whether an issue can be referred to the Overview Scrutiny Committee.

21.2.3 A successful referral will ensure that the Councillor Call for Action will be placed on the next available agenda of the Overview Scrutiny Committee.

21.2.4 The Overview Scrutiny Committee may decide not to accept the referral and to give the referring member reasons why it has decided not to take the matter forward.

21.2.5 The Overview Scrutiny Committee may decide to accept the referral and to take the matter further in accordance with the protocol.

21.2.6 Once the Overview Scrutiny Committee has completed its work on the referral the member who made the referral will receive a copy of any report or recommendations in relation to it.

## **22. Petitions**

22.1 The Council's Petitions Scheme (see Annex 3.12) allows for petitions reaching a minimum of 750 valid signatures to ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job.

22.2 Notice of any petition which as a result of the Petitions Scheme (See Annex 3.12) is to be considered by the Overview Scrutiny Committee must be given to the Proper Officer at least seven clear working days prior to the Committee meeting.

- 22.3 The petition organiser or nominated substitute may submit a summary of the issues raised in the petition to the Proper Officer at least seven clear working days prior to the Committee meeting. This summary will be included in the agenda papers and circulated to all Members of the Council.
- 22.4 The petition organiser or nominated substitute may not directly question the officer concerned but may indicate to the Chair the areas that need to be covered.

## **Annex 2.6: Financial Procedure Rules**

### **1. Interpretation**

In these Rules:

- (1) References to Committees will include any sub-Committees, Area Committees or joint arrangements with other authorities that are responsible for incurring expenditure.
- (2) References to Budget Manager will include any officer designated as having responsibility for a financial budget.
- (3) References to Chief Officers will include the Chief Executive, Directors, Assistant Directors and Service Managers.
- (4) The Chief Officer Management Team will mean the Chief Officers of the Council collectively.
- (5) The Corporate Management Team will mean the Chief Executive and Directors and the designated Section 151 Officer and Monitoring Officer collectively.
- (6) The Section 151 Officer will mean the Director (Corporate Services), as appointed under Section 151 of the Local Government Act 1972, which requires that "Every local authority will make arrangements for the proper administration of their financial affairs and will secure that one of their officers has responsibility for the administration of those affairs." The Section 151 Officer may delegate in writing certain of his/her responsibilities within these Rules to his/her staff but must retain overall responsibility as the Section 151 officer.
- (7) The Deputy Section 151 Officer will mean the Assistant Director (Corporate Services).
- (8) The Monitoring Officer will mean the existing Chief Legal Officer and Monitoring Officer for Medway Council who is formally designated as the Monitoring Officer for Gravesham Borough Council in accordance with Section 5 of the Local Government and Housing Act 1989 and amended by Schedule 5 paragraph 24 of the Local Government Act 2000.

### **2. Introduction**

- 2.1. These Financial Procedure Rules are made pursuant of the Local Government Act 1972 Section 151(as amended) and the Accounts and Audit Regulations 2015 and all other enabling powers.

- 2.2. The Financial Procedure Rules provide the framework for management of the Council's financial affairs. They apply to every Elected Member and Officer of the Council and anyone acting on behalf of the Council. The rules identify the financial responsibilities of employees and Members and where these responsibilities are delegated, a written record should be maintained of the delegation to whom and any limits that apply.
- 2.3. All Elected Members and Officers of the Council have a responsibility for taking reasonable action to provide the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money for the Council and its community.
- 2.4. The Section 151 Officer is responsible for:
- Maintaining a continuous review of these financial procedure rules and submitting any additions or changes necessary to Full Council for approval.
  - Reporting, where appropriate, breaches of the financial regulations to Full Council.
  - Issuing advice and guidance to underpin the financial regulations which Members, officers and others acting on behalf of the Council are required to follow.
- 2.5. Each Chief Officer is responsible for the accountability and control of staff and the security, custody and control of all assets associated with their area of responsibility. In particular, Chief Officers are responsible for:
- ensuring that all staff in their departments are aware of the existence and content of these Financial Procedure Rules and other internal regulatory documents and that they comply with them.
  - ensuring that responsibility for monitoring and managing each budget head within their area has been assigned to a Budget Manager.
- 2.6. All Elected Members and Officers of the Council have a duty to abide by the highest standards of probity in dealing with financial issues. If there should be any doubt over the application of these Financial Procedure Rules the matter should be referred to the Section 151 Officer.
- 2.7. Any person found to have breached these rules may, after consultation between the Section 151 Officer, Chief Executive and Monitoring Officer, be subject to disciplinary action.

### **3. Financial Planning**

#### **3.1. Strategic Financial Planning**

- 3.1.1. The Section 151 Officer is responsible for directing the strategic financial planning arrangements of the Council. This includes the production and publication of the Medium Term Financial Strategy which sets the aims, objectives and principles by which the Council's finances are planned, directed and managed.

- 3.1.2. Full Council is responsible for approving the Medium Term Financial Strategy as part of the overall Policy Framework of the Council.

### **3.2. Budget Format**

- 3.2.1. Subject to the Policy Framework and Budget Procedure Rules set out in Annex 2.3 to this Constitution, the detailed form of capital and revenue estimates will be determined by the Section 151 Officer and be consistent with the general directions of the Cabinet and after consultation with the Chief Officer Management Team.

### **3.3. Budget Setting – General Fund Revenue**

- 3.3.1. The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis by the statutory date required for consideration by the Chief Officer Management Team and Cabinet before submission to Full Council. Full Council may amend the budget before approving it. The approved budget sets the annual cash limit within which the Council is expected to operate.
- 3.3.2. The Section 151 Officer is responsible for maintaining a Medium Term Financial Plan for the Council, setting out the projected financial position of the Council over a future time period. The Medium Term Financial Plan will form part of the reporting to Members in considering and approving the annual revenue budget for the Council.
- 3.3.3. Chief Officers are required to participate fully in the budget setting process in accordance with necessary standards and deadlines. They are responsible for ensuring that their financial and service planning activity results in accurate figures and plans being submitted for inclusion in the overall budget.
- 3.3.4. In accordance with Section 114 of the Local Government Finance Act 1980 the Section 151 Officer is required to report to Full Council, Cabinet and the External Auditor if the authority or one of its officers:-
- (1) has taken, or is about to take, a decision which involves incurring unlawful expenditure;
  - (2) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority;
  - (3) is about to make an unlawful entry in the authority's accounts.

### **3.4. Business Planning – Housing Revenue Account**

- 3.4.1. The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis regarding the income from rents and other charges in respect of houses and other property, and the expenditure in respect of the repair, maintenance, supervision and management of such property and such other matters connected with the Housing Revenue Account. The budget will be considered by the Chief Officer Management Team and Cabinet before submission to Full Council. Full Council may amend the budget before approving it. The approved budget sets the annual cash limit within which the Council is expected to operate.

- 3.4.2. The Section 151 Officer is responsible for maintaining a Business Plan for the Housing Revenue Account, setting out the projected financial position of the account over a future time period. The Business Plan will form part of the reporting to Members in considering and approving the annual revenue budget for the Housing Revenue Account.
- 3.4.3. Chief Officers are required to participate fully in the budget setting process in accordance with necessary standards and deadlines. They are responsible for ensuring that their financial and service planning activity results in accurate figures and plans being submitted for inclusion in the overall budget.

### **3.5. Budget Setting – Capital**

- 3.5.1. The Section 151 Officer is responsible for ensuring that a programme of capital expenditure is prepared on an annual basis, following the principles established in the Council's Medium Term Financial Strategy. Capital expenditure programmes will cover a three-year period and show projects already approved and those for future consideration. Such programmes will be considered by the Chief Officer Management Team and Cabinet before submission to the Full Council.
- 3.5.2. Upon approval by Full Council of the programme of capital expenditure, the Chief Officer concerned will be authorised to:-
- (1) take steps to enable land required for the purposes of the programme to be acquired in due time; and
  - (2) prepare a scheme and estimate, including associated revenue expenditure, for approval by the Cabinet as required by paragraph 4.3.1 of these Financial Procedure Rules.

### **3.6. Capital Funding Sources**

- 3.6.1. The Section 151 Officer is responsible for ensuring that a register of capital funding sources is maintained. This responsibility is shared with the Director responsible for development management in relation to S106 Agreements, Developer Agreements or other capital funding derived from development management activity.

### **3.7. Establishment, Use and Maintenance of Financial Reserves**

- 3.7.1. The Section 151 Officer is responsible for advising Cabinet and Full Council on the appropriate level of working balances and the establishment of specific financial reserves. As part of the annual budget setting process, the Section 151 Officer will undertake a formal review of working balances and current reserves to ensure that they continue to be relevant and prudent. The findings of the review will be reported to the Corporate Management Team and Cabinet before submission of the proposed annual budget to Full Council.
- 3.7.2. Use of working balances will be in accordance with the arrangements contained within the Medium Term Financial Strategy.

- 3.7.3. Use of reserves will be in accordance with spending patterns notified to the Section 151 Officer as part of the formal review of working balances and current reserves or with approval from the Section 151 Officer in consultation with the Corporate Management Team.

## **4. Financial Management**

### **4.1. Financial Organisation**

- 4.1.1. The Cabinet is responsible for regulating and controlling the finances of the Council, subject to the Policy Framework and Budget Procedure Rules set out in Annex 2.3 of this Constitution.

### **4.2. Budget management and control**

- 4.2.1. Budget management ensures that the financial resources allocated by Members are used for their intended purposes and are properly accounted for. Budgetary control is a continual process enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism to call to account Budget Managers responsible for defined elements of the budget.
- 4.2.2. The inclusion of items in approved annual budgets establishes the authority to incur such expenditure, except where the Cabinet or Full Council have placed a reservation on any such item or items. Expenditure on any such reserved items may be incurred only when, and to the extent that, any such reservation is removed.
- 4.2.3. The Section 151 Officer is responsible for providing appropriate and timely financial information to each Budget Manager to enable budgets for income and expenditure to be effectively monitored.
- 4.2.4. It is the responsibility of Budget Managers to control income and expenditure within their areas of responsibility and to monitor performance, taking account of financial information provided by the Section 151 Officer.
- 4.2.5. Budget Managers are responsible for regularly reviewing the budgets under their responsibility and identifying and explaining variances against budgetary target. By doing this, Budget Managers can identify changes in trends and resource requirements at the earliest opportunity. Budget Managers should take any action necessary to avoid exceeding their overall budget allocation and alert the Section 151 Officer to any problems, making proposals for dealing with each situation.
- 4.2.6. All reports to Full Council, committees, and the Corporate Management Team will contain a financial appraisal setting out the full financial implications arising from the proposal contained in the report and the adequacy or otherwise of financial budget in relation to the item for decision. The financial appraisal (or its absence from a report or reports) must be agreed with the Section 151 Officer.



- 4.2.7. Each Chief Officer will consult the Section 151 Officer in respect of any matter within their areas of responsibility which has the potential to materially affect the finances of the Council. If, after consultation with the Section 151 Officer, the Chief Executive and the Leader of the Executive, the expenditure cannot be contained within the overall budget or through methods set out in paragraph 4.4.5 of these Financial Procedure Rules, the Chief Officer concerned will be required to seek approval for a supplementary budget from Full Council. This will take place before any financial commitment is made and/or before reporting the matter to the Cabinet.
- 4.2.8. Where it appears that the amount of any head of expenditure is likely to vary from that approved, by an amount in excess of £10,000, it will be the duty of the Chief Officer concerned to report this to the Section 151 Officer unless delegated power to authorise virement is exercised as at section 4.4 of these Financial Procedure Rules. Such variances should be reported to Cabinet by the Chief Officer or the Section 151 Officer via either the budget monitoring report or a specific report.
- 4.2.9. The Section 151 Officer will produce a report of the Council's financial position on a quarterly basis for consideration by the Corporate Management Team and Elected Members in accordance with the responsibilities for monitoring and regulating the Council's financial performance as set out at Annex 1 to this Constitution.
- 4.2.10. Subject to the provisions of the Policy Framework and Budget Procedure Rules, the Cabinet Procedure Rules and the Scrutiny Procedure Rules set out in Annexes 2.3, 2.4, and 2.5 to this Constitution:-
- 4.2.10.1. Neither the Cabinet nor any Committee nor any Officer of the Council may incur expenditure which:-
- (1) is not legal; or
  - (2) is not related to a function for which responsibility has been delegated to them in accordance with this Constitution; or
  - (3) cannot be met from the amounts provided in the annual revenue and capital estimates.
- 4.2.11. Nothing in these Financial Procedure Rules will prevent the commitment by Chief Officers of expenditure which is essential in meeting any immediate needs created by a sudden emergency or which is related to Section 138 of the Local Government Act 1972, subject to such action being reported forthwith to the Cabinet.

### 4.3. Specific budget monitoring and control arrangements for capital projects

#### 4.3.1. In the case of:-

- (1) any proposal for capital expenditure involving the acquisition of land or the undertaking of building or other constructional works in excess of £100,000; or
- (2) any proposal for capital expenditure which might entail the Council taking on significant potential liabilities,

a full report giving an estimate of total expenditure and any on-going revenue or other financial implications will be made submitted to the Cabinet before any contractual commitment is entered into, save where delegated authority to progress with the transaction has been granted. Any such report will make reference to the adequacy or otherwise of the financial budget contained within the capital programme.

#### 4.3.2. Where a revised estimate is made of expenditure for the acquisition of land or the undertaking of building or other constructional works, and that revised estimate both:-

- (1) exceeds £100,000 in total; and
- (2) exceeds the last reported estimate by an amount equal to 2% (two percent) of the last reported estimate or £10,000, whichever is the lesser figure; then

a report giving full details of the revised estimate of total expenditure and revenue and other financial implications will be made to the Cabinet before any contractual commitment is entered into.

### 4.4. Virements

- 4.4.1. A scheme of virement exists to enable the management of budgets with a degree of flexibility to optimise the use of resources within the overall Policy Framework and Budget Procedure Rules set out in Annex 2.3 to this Constitution.
- 4.4.2. Virements between the Housing Revenue Account and the General Fund must be approved by Full Council.
- 4.4.3. Directors and Assistant Directors may, after consultation with the Section 151 Officer, vire up to £10,000 between any heads of expenditure or income within the approved revenue or capital budget for which they are responsible.
- 4.4.4. The Corporate Management Team may, after consultation with the Section 151 Officer, vire up to £50,000 between any heads of expenditure or income within the approved revenue or capital budget for which they are responsible.
- 4.4.5. Cabinet Members may, after consultation with the Section 151 Officer, vire up to £100,000 between any heads of income or expenditure within the approved budgets within their respective portfolio.

4.4.6. The Cabinet may incur, without Council's prior approval, expenditure not within the approved budget provided that the following criteria apply:

- (1) The cost is to be met from external funding, a contingency or reserve set up for the purpose; or
- (2) It is to be met from proven savings elsewhere in the revenue budget and does not exceed £100,000; or
- (3) It is to be met from proven savings in that financial year in the Capital programme and does not exceed £100,000 per project; or
- (4) The new project (whether revenue or capital) is fully funded by a grant or external contribution and resources already contained within the Councils' budgets provided that the cost of the project does not exceed £100,000, and
- (5) The expenditure is in line with the delivery of existing Council policy or furtherance of the Council's Corporate Objectives.

4.4.7. Any proposal to vire which is not covered in 4.4.5 must be approved by Full Council.

#### **4.5. Treatment of Year-end balances**

4.5.1. Chief Officers can request to carry forward unspent budget for specific purposes. Requests to carry forward unspent budget must be made to the Section 151 Officer specifying the relevant budget head, the budget amount to be carried forward and the reason for the carry forward request.

4.5.2. Such requests will be considered and approved by the Corporate Management Team once the year-end position is finalised; the ability to carry-forward unspent budget is dependent on the overall financial position of the Council.

#### **4.6. Accounting policies**

4.6.1. The Section 151 Officer is responsible for maintaining the accounting policies adopted by the Council, ensuring that they are in accordance with proper practice and applied consistently.

#### **4.7. Accounting Arrangements and Duties**

4.7.1. The Section 151 Officer is responsible for maintaining satisfactory accounting arrangements for the financial transactions of the Council. Where such procedures and records are maintained in a department other than that of the Section 151 Officer, these will be held in accordance with instructions to staff in the form of manuals, guidance notes and procedure notes.

4.7.2. The following principles will be observed in the allocation of accounting duties:-

- (1) the duties of providing information regarding the sums due to or from the Council and of calculating, checking and recording these sums will be separated from the duty of collecting or disbursing such sums;
- (2) officers charged with the duty of examining and checking the accounts of cash transactions will not themselves be engaged in any of these transactions.

#### **4.8. Annual Statement of Accounts**

- 4.8.1. The Section 151 Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with proper practice, currently recognised as the Code of Practice on Local Authority Accounting in the United Kingdom.
- 4.8.2. Full Council has delegated responsibility for approving the Annual Statement of Accounts to the Finance and Audit Committee.

#### **4.9. Public Access**

- 4.9.1. In accordance with statutory requirements, the Section 151 Officer will make arrangements each year to allow persons to inspect related documents associated with the Annual Statement of Accounts.

### **5. Governance, Risk Management & Control of Resources**

#### **5.1. Corporate Governance**

- 5.1.1. The Council has in place a Code of Corporate Governance which sets out the procedures and processes put in place to deliver the Council's Corporate Objectives.
- 5.1.2. The Council will review its governance arrangements on an annual basis and reported the findings of the review in the Annual Governance Statement.

#### **5.2. Risk Management**

- 5.2.1. The Cabinet is responsible for approving the Council's Risk Management Strategy and Corporate Risk Register prior to adoption by Full Council. The Finance & Audit Committee are responsible for monitoring the effective development and operation of risk management arrangements.
- 5.2.2. Chief Officers are responsible for embedding risk management into the daily operations of the Council.
- 5.2.3. The Council will consider risk in most of its activities and decisions. Reports to the council's Management Team and Members require risks associated with the decision being taken to be considered. The council's project management approach also recognises the need to identify, manage and monitor risks as a contributing factor to effective project management.

### 5.3. Internal Control

- 5.3.1. Internal control refers to the framework of policies and procedures and systems of control devised by management intended to direct the activity of the Council and ensure transparency in decision making. An effective system of internal control helps ensure that the Council's objectives are achieved in a manner which promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 5.3.2. The Section 151 Officer 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, and in accordance with the statutory and other authorities that govern their use.
- 5.3.3. It is the responsibility of all Chief Officers 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 and other performance targets.
- 5.3.4. Each Chief Officer will ensure the same officer is not responsible for receiving or paying money and creating accounts or issuing receipts for the same.
- 5.3.5. All Members and Officers of the Council are required to declare any financial and other interest in any outside bodies or organisations which could be considered or perceived as having an influence on their actions on behalf of the Council.
- 5.3.6. The Council operates a Policy for Improving Performance which incorporates the Council's disciplinary procedure, which applies to all employees. The Council has established a Standards Committee to deal with matters relating to the Member's Code of Conduct.

### 5.4. Internal Audit

- 5.4.1. The Accounts & Audit Regulations 2015 require local authorities to 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. This is the responsibility of the Section 151 Officer, albeit the delivery of a compliant internal audit service has been delegated to the Section 151 Officer of Medway Council to deliver internal audit services through the Shared Service to both authorities.
- 5.4.2. Internal Audit is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. The work of Internal Audit should be carried out in accordance with proper practice, currently recognised as the Public Sector Internal Audit Standards. The Chief Audit Executive has the ability to report in their own right to the Chief Executive and the Chair of the Finance & Audit Committee.

#### 5.4.3. Internal Audit Staff have the authority to:-

- (1) enter at all times any Council premises or land or location from which Council services are provided;
- (2) have access to all property, records, documents and correspondence relating to all activities of the Council;
- (3) require and receive explanations concerning any matter; and
- (4) require any employee of the Council, without prior notice, to produce cash, stores or any other property for which they are responsible.

5.4.4. Chief Officers are responsible for ensuring that appropriate adequate internal controls exist, without regard to audit activity. It is for management to decide whether or not to accept and implement audit findings and recommendations, subject to adherence to Council Policy and Financial Procedure Rules. Implementation of internal audit recommendations will be monitored by the Corporate Management Team.

#### 5.5. External Audit

5.5.1. The Local Audit & Accountability Act 2014 requires local authorities to have an annual external audit of its accounting records and Statement of Accounts and governs the process for the appointment of the external auditor for this purpose.

5.5.2. The Section 151 Officer will ensure that the appointed External Auditor is given access at all times to premises, personnel, documents and assets that he/she considers necessary for the purposes of their work. The Section 151 Officer will also ensure there is effective liaison between external and internal audit and other departments of the Council.

#### 5.6. Counter Fraud & Irregularities

5.6.1. The Council recognises the importance of managing the risk of fraud and putting in place adequate arrangements to prevent, detect and investigate fraudulent activity committed against the Council. The Section 151 Officer of Medway Council has responsibility for the delivery of counter fraud services to the Council through the Shared Service to both authorities. The team also acts as the Single Point of Contact between the Council and the Department for Work & Pensions Fraud & Error Service for their investigation of Benefits Fraud.

5.6.2. Chief Officers are responsible for informing the Section 151 Officer of any matter which may involve loss or irregularity concerning cash, stores or other property of the Council or any suspected irregularity in the operations or exercise of the functions of the Council as soon as they become aware or suspect any such activity is taking place. The Council will then conduct any further activity deemed necessary in accordance with the formal procedure for conducting such investigations.

5.6.3. Chief Officers are expected to co-operate and support fraud detection activity such as the National Fraud Initiative and other data-matching.

## 5.7. Value for Money

- 5.7.1. Chief Officers are responsible for ensuring that proper arrangements are in place to secure economy, efficiency and effective in the use of Council resources within their respective areas of responsibility.
- 5.7.2. The External Auditor is required by Section 21 of the Local Audit & Accountability Act 2014 to satisfy themselves that the Council has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VFM) conclusion.

## 5.8. Contracts

- 5.8.1. All contracts issued on behalf of the Council should have due regard to the Contract Procedure Rules contained within the Constitution.
- 5.8.2. Chief Officers are responsible for ensuring that the Section 151 Officer is informed as soon as possible of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the Council.
- 5.8.3. Before any contract for the supply of goods and services is entered into, the appropriate Chief Officer should ensure that an evaluation is carried out on the financial competence of the prospective contractor. This can be provided on request by the Exchequer function within the Financial Services Team.
- 5.8.4. The appropriate Chief Officer must ensure that adequate insurances and bonds are in place where deemed necessary prior to any contract being entered into. Advice on this can be provided by the Legal Shared Service and by the Exchequer function within the Financial Services Team.
- 5.8.5. The Council is required to publish details on all contracts with an annual value that exceeds £5,000. The appropriate Chief Officer is responsible for providing details of any such contracts awarded by the Council to the Section 151 Officer. The Section 151 Officer will make arrangements to maintain a register of contracts with an annual value that exceeds £5,000 showing:-
  - (1) the purpose and nature of the contract;
  - (2) the contractor selected to provide the supply or service;
  - (3) the annual value of the contractor;
  - (4) contract start, end and review dates;
  - (5) procurement route for securing contract;
  - (6) whether the supplier is a small or medium sized enterprise or a voluntary or community sector organisation.

- 5.8.6. Payments to contractors on account will be made only where a certificate of payment is authorised by the relevant Chief Officer (or private architect, engineer or consultant where engaged by the Council) as appropriate, or by any other officer nominated by the Chief Officer in writing for the purpose. The certificate of payment should show the total amount of the contract, the value of work executed to date, retention money, amount paid to date and the amount now certified.
- 5.8.7. No payment will be made in advance on a contract unless specifically authorised by the Director responsible for that contract, or his nominated representative, after consultation with the Section 151 Officer.
- 5.9. Specific control arrangements for the acquisition and disposal of investment, non-investment and housing assets**
- 5.9.1. The arrangements for the acquisition and disposal of commercial investment property assets by the Council will be as set out in the approved Property Acquisition Strategy.
- 5.9.2. The arrangements for the acquisition and disposal of dwellings and other HRA property assets will be as set out in the approved Housing Development Strategy.
- 5.9.3. The arrangements for the acquisition and disposal of other property and land assets of the Council will be as set out in the approved Property Strategy.
- 5.10. Specific control arrangements for procuring other assets on behalf of the Council**
- 5.10.1. Directors will be responsible for determining whether an asset will be leased or financed by an alternative means, in conjunction with the Section 151 Officer. Before entering into any contract hire, finance or operating lease, or lease-rental agreement, Directors will consult the Section 151 Officer to ensure that the arrangement is financially advantageous to the Council and the proper accounting treatment can be determined. Any resultant legal agreement must be approved by the Monitoring Officer.
- 5.10.2. Directors will be responsible for undertaking the selection of the supplier of an asset to be leased following the normal rules for procurement.
- 5.10.3. The Section 151 Officer will sign leasing agreements and any extensions thereof.
- 5.11. Specific control arrangements for construction and building works projects**
- 5.11.1. Subject to the provisions of the contract in each case, every variation will, unless otherwise evidenced to the Chief Officer's satisfaction, be authorised in writing by the relevant Chief Officer (or private architect, engineer or consultant where engaged by the Council) as appropriate, or by any other officer nominated by the Chief Officer in writing for the purpose. Any such variation which affects the scope of works or value of the original contract must be referred to the Monitoring Officer and Section 151 Officer, with consideration made of the reporting requirements to Cabinet set out in Section 4.3 of these Finance Procedure Rules.



- 5.11.2. Claims from contractors in respect of matters not clearly within the terms of any existing contract will be referred to the Monitoring Officer for consideration of the authority's legal liability and, where necessary, to the Section 151 Officer for financial consideration before a settlement is reached.
- 5.11.3. Where completion of a contract is unreasonably delayed, it will be the duty of the Chief Officer concerned to take appropriate action in respect of any claim for liquidated damages.

## **5.12. Insurance**

- 5.12.1. The Section 151 Officer will put in place insurance cover relating to Council activity and negotiate all claims and maintain all necessary records, in consultation with other officers where appropriate. This will include the provision of indemnity insurance for both officers and Members of the council, who undertake an official Director role on the Boards on the Local Authority trading Company and/or its subsidiaries.
- 5.12.2. Chief Officers will give prompt notification to the Section 151 Officer of the nature and extent of all risks to be insured and of any changes to council activity that may give rise to insurable risks within their area of responsibility.
- 5.12.3. Chief Officers will immediately notify the Section 151 Officer in writing of any loss, liability or damage or any event likely to lead to a claim in connection with their area of responsibility.
- 5.12.4. All appropriate employees of the Council will be included in a suitable fidelity guarantee insurance.
- 5.12.5. The Section 151 Officer will, at least annually, review all insurances in consultation with Chief Officers as appropriate.
- 5.12.6. Chief Officers will not issue any indemnity which the Council is requested to give before consulting the Section 151 Officer and the Monitoring Officer.

## **5.13. Trading Accounts/Business Units**

- 5.13.1. It is the responsibility of Chief Officers to seek advice from the Section 151 Officer on the establishment and operation of trading accounts and business units.

## **5.14. Stocks and Stores**

- 5.14.1. The appropriate Chief Officer will be accountable for the security and custody of stores items in their area of responsibility.
- 5.14.2. Stores will not be held in excess of reasonable requirements except where agreed between the Chief Officer concerned and the Section 151 Officer.
- 5.14.3. Stores records will be kept in a form approved by the Section 151 Officer.
- 5.14.4. The Section 151 Officer will be entitled to check stores and be supplied with such information relating thereto as may be required for the accounting, costing and financial records of the Council.

- 5.14.5. The relevant Chief Officer will be responsible for ensuring at least annual stock checking is carried out as at 31 March. Adjustments to write-off deficiencies, or to bring surpluses into charge, will be subject to the approval of the Section 151 Officer. They will be submitted to the Section 151 Officer on schedules certified by the appropriate Chief Officer.
- 5.14.6. Surplus stores will be disposed of by means set out in Section 5.17 of these Financial Procedure Rules unless the Chief Officer and Section 151 Officer determine otherwise.

#### **5.15. Asset Management (including Inventories)**

- 5.15.1. Chief Officers should ensure that records of assets with a value more than £500 are properly maintained and securely held. Each Chief Officer will be responsible for maintaining an annual check of all items on any such inventory and will give prompt notification to the Section 151 Officer of any surpluses or deficiencies.
- 5.15.2. The Section 151 Officer will issue instruction and ensure the maintenance of an Asset Register for all fixed assets with a value in excess of £12,000. The Section 151 Officer will ensure assets are valued in accordance with the Code of Practice on Local Authority Accounting.
- 5.15.3. The Director with responsibility for Housing will maintain a record of all properties owned by the Council in a form approved by the Section 151 Officer.
- 5.15.4. Directors should ensure that assets 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.
- 5.15.5. The Council's property will not be removed except in accordance with the ordinary course of the Council's business nor used for any purposes other than the Council's business, except in accordance with specific directions issued by the Chief Officer concerned.
- 5.15.6. Chief Officers are responsible for ensuring that any appropriations, disposals or material changes to assets are promptly notified to the Section 151 Officer and are administered in accordance with the provisions at Section 5.17 and Section 5.19 of these Financial Procedure Rules.
- 5.15.7. The Monitoring Officer will be responsible for ensuring that all title deeds are held in a secure manner.

#### **5.16. Land & Property Terrier**

- 5.16.1. The Director responsible for Estates Management will be responsible for maintaining a terrier database of all Council land and property recording the purpose for which held, including details of any appropriations, location, extent and plan reference, purchase details, rents receivable and payable.

5.16.2. The Section 151 Officer will make arrangements for the Asset Register to be reconciled to the Land and Property Terrier as appropriate.

#### **5.17. Miscellaneous Sales**

5.17.1. Disposal of all ICT (Information and Communications Technology) equipment must be in accordance with the ICT Disposal Policy.

5.17.2. Chief Officers are authorised to arrange the sale/disposal of non ICT surplus materials or assets, without offers, when expected income is not greater than £1,000.

5.17.3. Chief Officers are authorised to arrange the sale/disposal of non ICT surplus materials or assets, without offers, when expected income is not greater than £5,000 provided they have first sought evidence of the appropriate value of the item to be sold.

5.17.4. When expected income is greater than £5,000, offers for the item must be invited and the terms of disposal will be agreed between the Section 151 Officer and the Chief Officer concerned.

5.17.5. The sale/disposal of non ICT surplus materials or assets where the estimated proceeds exceed £10,000 will be approved in advance by the appropriate Cabinet Member.

5.17.6. Payment must be made before the goods are released, unless the Section 151 Officer has agreed otherwise.

5.17.7. Chief Officers must maintain complete records of items sold, including details of the item(s), serial numbers or unique references, the customer and the actual sale income generated. Chief Officers will be responsible for issuing receipts for monies received in respect of miscellaneous sales.

5.17.8. Any items sold should be notified to the Section 151 Officer to enable items to be removed from the Council's insurance inventory where appropriate.

#### **5.18. Intellectual Property**

5.18.1. The Monitoring Officer in conjunction with the Section 151 Officer will determine the policy and procedure guidance relating to intellectual property of the Council. Intellectual property of the Council may include, for example, inventions, writings and computer software. If these are created by members of staff during their employment they will generally belong to the Council and not the employee. Certain software development may be patentable.

#### **5.19. Banking Arrangements**

5.19.1. The Section 151 Officer will be responsible for establishing and operating the banking arrangements of the Council as considered necessary. No officer will be permitted to open bank accounts for the purpose of transacting Council - related business.

5.19.2. Bank accounts operated on behalf of the Council will be in the name of "Gravesham Borough Council".

- 5.19.3. All payments will be made directly by BACS (Bankers Automated Clearing System) unless the Section 151 Officer determines use of the Clearing House Automated Payments System (CHAPS) or the Faster Payments Service is more appropriate.
- 5.19.4. Payments made, irrespective of value, should be supported by a Purchase Order unless deviation from this arrangement is explicitly set out in paragraph 6.5.1 of these Financial Procedure Rules or authorised by the S151 Officer. In such cases, payments should be supported by an invoice or payment authorisation form. Purchase Orders, invoices and payment authorisation forms must be signed by the Officer responsible for producing the payment and approved by an authorised signatory. Such signatures may be electronic in form.
- 5.19.5. No officer will make arrangements for recurrent payments to be made by Direct Debit or Standing Order without the prior approval of the Section 151 Officer.
- 5.19.6. In the limited instances where a cheque is required to be drawn manually on behalf of the Council, the cheque will be signed by the Section 151 Officer or other authorised signatories for the bank account in question. Manually prepared cheques for £5,000 or more will require the signatures of two authorised signatories for the bank account in question.
- 5.19.7. Payment of individual invoiced amounts exceeding £25,000 will require the signatures of two authorised signatories.
- 5.19.8. Third-party cheques may not be accepted in payment by any officer of the Council except where authorised to do so by the Section 151 Officer.
- 5.19.9. No cheques may be cashed from the Council's money by any officer of the Council except where authorised to do so by the Section 151 Officer.
- 5.19.10. The Section 151 Officer is responsible for making arrangement to periodically reconcile the Council's bank accounts with the cash book and ledger.

## **5.20. Corporate Credit Card Arrangements**

- 5.20.1. The issue of Credit Cards or Procurement Cards to certain members of Council staff will be approved by the relevant Director and receive final approval by the Section 151 Officer and will normally be restricted to members of staff who are authorised to sign official orders.

## **5.21. Treasury Management**

- 5.21.1. The Council has adopted the Code for Treasury Management in Local Authorities published by the Chartered Institute of Public Finance and Accountancy (CIPFA).
- 5.21.2. The Council has delegated responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet and for the execution and administration of treasury management decisions to the Section 151 Officer who will act in accordance with CIPFA's Standard of Professional Practice on Treasury Management.

- 5.21.3. The Section 151 Officer is responsible for creating and maintaining:-
- (1) a treasury management policy statement, stating the policies and objectives of its treasury management activities;
  - (2) suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.
- 5.21.4. The Section 151 Officer will prepare a proposed Treasury Management Strategy and associated Statements for the forthcoming year. This will be considered by the Finance & Audit Committee before being presented to Full Council for approval.
- 5.21.5. The Section 151 Officer has delegated responsibility for implementing the Treasury Management Strategy, including decisions on borrowing, investing and financing.
- 5.21.6. The Finance and Audit Committee will receive reports on the Council's treasury management policies, practices and activities including, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its close and before 30 September of the following financial year.

## 5.22. Investments & Borrowing

- 5.22.1. All investment of money under its control will be made in the name of the Council or in the name of nominees approved by the Cabinet. Bearer securities will be excepted from this requirement, but any purchase of such securities will be reported to the Cabinet.
- 5.22.2. All securities other than land, the property of or in the name of the Council or its nominees will be held in custody of the Section 151 Officer, Monitoring Officer or the Council's bankers.
- 5.22.3. All borrowings will be in the name of the Council.
- 5.22.4. The Section 151 Officer will be the Council's registrar of bonds and bills and will maintain records of all investments and borrowings of money by the Council.
- 5.22.5. All trust fund investments will, wherever possible, be in the name of the Council.
- 5.22.6. All officers acting as trustees by virtue of their official position will deposit all securities, etc., relating to the trust with the Section 151 Officer or the Council's bankers, unless the trust deed provides otherwise.

## 5.23. Staffing

- 5.23.1. The Chief Executive is responsible for determining how officer support for Cabinet roles and non-Cabinet roles within the Council will be organised, providing overall management of staff and ensuring that there is proper evaluation for determining the remuneration relative to individual job roles.

- 5.23.2. Directors are responsible for controlling total staff numbers by:
- (1) advising the Section 151 Officer on the budget necessary in any given year to cover estimated staffing levels, as part of the annual budget setting process;
  - (2) adjusting the staffing to a level that can be funded within approved budget provision;
  - (3) ensuring the proper use of appointment procedures.
- 5.23.3. Chief Officers are required to formally advise the Corporate Management Team of any changes to the staffing establishment.
- 5.23.4. The Section 151 Officer will provide periodic information to the Corporate Management Team and Members on the employee expenditure budget and spend to date.

#### **5.24. Security**

- 5.24.1. Each Director is responsible for ensuring that reasonable arrangements exist for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash and advances, under their control in accordance with guidance provided by the Section 151 Officer. They will consult the Section 151 Officer in any case where security is thought to be defective or where it is considered that special arrangements may be needed.
- 5.24.2. Maximum limits for cash holdings will be agreed with the Section 151 Officer and will not be exceeded without express permission from the Section 151 Officer.
- 5.24.3. Keys, combinations or access codes to safes and similar receptacles are to be carried, where possible, on the persons of those responsible at all times. Where this is not possible, suitable alternative arrangements must be made. The loss of any such access tools must be reported to Section 151 Officer immediately.

#### **5.25. Register of Interests**

- 5.25.1. The Monitoring Officer is responsible for agreeing the procedures for registering Members' and officer interests.
- 5.25.2. The Section 151 Officer is responsible for holding and maintaining records of officer interests.

#### **5.26. Gifts and Hospitality Registers**

- 5.26.1. Officers and Members are required to formally declare any gifts or hospitality offered, whether accepted or not.
- 5.26.2. The Section 151 Officer is responsible for holding the Gifts and Hospitality Register.

## 6. Systems and Procedures

### 6.1. General

- 6.1.1. The Section 151 Officer will carry out periodic reviews to ensure that instructions and guidance issued in relation to corporate financial systems and procedures are in place and operating as intended.

### 6.2. External Funding

- 6.2.1. Chief Officers are required to notify the Section 151 Officer of any new bids for grant applications and provide copies of grant applications and letters of acceptance to the Section 151 Officer. Chief Officers should ensure that all grants and external funding income is promptly claimed and proper records and working papers are retained to justify claims.
- 6.2.2. For bids under £50,000 where any partnership/match funding can be met from within existing budgets, approval to make the bid should be agreed with the relevant Chief Officer and notified to the Section 151 Officer.
- 6.2.3. All bids between £50,000 and £100,000 should be approved by the relevant Cabinet Member and notified to the Section 151 Officer. Bids over £100,000 require Cabinet approval and should also be notified to and agreed by the Section 151 Officer.
- 6.2.4. For each bid made, a report should be prepared and submitted to the relevant Chief Officer, Cabinet Member or to full Cabinet seeking formal approval to proceed with the bid and should contain:
- (1) Details of the funding opportunity/scheme;
  - (2) Details of the bid's objectives, and how these contribute to the Council's priorities;
  - (3) Financial implications including grant request (capital or revenue);
  - (4) Match funding required from Councils or other sources, any links to existing projects financial or otherwise, VAT implications;
  - (5) How the project will be managed;
  - (6) Thorough risk assessment;
  - (7) Exit Strategy and Evaluation and Monitoring plans including thorough consideration of any revenue implications for the Councils once funding ceases, mainstreaming etc.;
  - (8) Partner involvement, including where the Council may be required to act as Accountable Body and any associated implications;

- (9) Timetable including deadline for submission, expected date of notification, anticipated start date and duration of the project;
- (10) Any legal or financial implications arising from Accountable Body status, shared indemnity etc.

6.2.5. Chief Officers will ensure that all claims for funds are made by the due date.

6.2.6. The Section 151 Officer will maintain a central grants register which will be used to record grants held and when grants are utilised.

### 6.3. **Income Collection**

6.3.1. Arrangements for the collection of money due to the Council must be approved by the Section 151 Officer prior to their implementation.

6.3.2. Chief Officers should ensure that, wherever possible, payment is received in advance of delivery of the service.

6.3.3. Chief Officers are responsible for maintaining sufficient information regarding the work done, goods supplied or services rendered in order to record correctly all sums due to the Council and ensure the prompt recovery of income due.

6.3.4. Chief Officers must promptly notify the Section 151 Officer of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.

6.3.5. The Section 151 Officer will determine which items are to be treated as controlled stationery and will control the custody and issue of such items.

6.3.6. All money received by an officer on behalf of the Council must be paid into the Council's banking accounts without delay. No deductions should be made from such money unless specifically authorised in advance by the Section 151 Officer. Banking of money received on behalf of the Council will be as per the process determined by the Section 151 Officer.

6.3.7. Every transfer of council money from one officer to another must be recorded by the department releasing the money through the signature of the receiving officer.

6.3.8. Chief Officers are responsible for ensuring that debtor's invoices are raised promptly for their own service area and for providing information as necessary to representatives of the Section 151 Officer in the recovery of such debt.

### 6.4. **Write-off of debts and losses**

6.4.1. The Council has a duty to maximise revenue collection. The writing-off of monies owed to the council is viewed as a last resort and should not be actioned until all other possible avenues for recovery have been explored. The Council has a documented corporate write-off process and the scheme of write-off set out below exists to enable the effective management of debt:

- 6.4.1.1. Service Managers have authority to write-off individual debts or losses of up to £10.



- 6.4.1.2. Directors and Assistant Directors have authority to write-off individual debts or losses of up to £1,000.
- 6.4.1.3. The Section 151 Officer and Deputy Section 151 Officer have authority to write-off individual debts or losses of up to £10,000.
- 6.4.1.4. The Section 151 Officer and Deputy Section 151 Officer have authority to write-off individual debts or losses of up to £15,000, in consultation with the relative Cabinet Portfolio holder.
- 6.4.1.5. The Cabinet will authorise the write-off of individual debts or losses exceeding £15,000.

## **6.5. Purchase Orders for Goods, Works and Services**

- 6.5.1. Official orders will be issued for all goods, works and services to be supplied to the Council except for rents, payments for continuing liabilities, purchases on corporate credit cards, council tax, business rates and small cash purchases properly paid for out of petty cash. Other specific exceptions must be agreed by the relevant Director and the Section 151 Officer.
- 6.5.2. Official orders will be in a form approved by the Section 151 Officer and are to be authorised only by officers approved to do so.
- 6.5.3. Orders should be placed through the on-line ordering system and have due regard to the thresholds stated within the Contract Procedure Rules regarding seeking quotations and tenders.
- 6.5.4. An oral order will be given only by or under the authority of an officer authorised to sign the relevant order and will be confirmed as soon as possible by the issue of an official order.
- 6.5.5. No order for goods, works or services except for goods being taken into a store will be issued unless the cost is covered by the approved annual estimates, virement or by supplementary estimate.
- 6.5.6. Official orders will only be used for fulfilling Council purposes and no personal acquisitions will be made using official orders.

## **6.6. Payment of Accounts (Invoices and Payment requests)**

- 6.6.1. Chief Officers authorising official orders will be responsible for making proper arrangements for the examination, verification and authorisation of accounts relating to the purchase of goods, works and services within their respective areas of responsibility.
- 6.6.2. Certification of an account for payment will mean confirming that:
  - (1) the goods have been received, examined and approved as to quality and quantity, that works or services have been completed satisfactorily, and that this is in line with the order;
  - (2) the account is a proper liability of the Council;

- (3) the expenditure is within the estimate or is covered by special financial provision and has been incurred in accordance with the Council's Contract Procedure Rules;
- (4) the prices (including value added tax) are arithmetically correct, accurately reflect any discounts or other credits or allowances to be applied and have been properly allocated to budget codes;
- (5) the account has not been previously certified for payment;
- (6) the proper entries have been made in the inventories or stores records, where appropriate.

6.6.3. The Section 151 Officer will maintain a record of authorised signatories for this purpose which will include the financial limit for transactions. Chief Officers are responsible for notifying the Section 151 Officer of any change.

6.6.4. Authorised accounts for payment should be passed to the Section 151 Officer without undue delay, especially where discounts are involved.

6.6.5. The Section 151 Officer will examine, so far as considered necessary, certified accounts passed for payment, and is entitled to receive such information and explanations as may be required before payment is released.

6.6.6. The Section 151 Officer will make arrangements to pay promptly all accounts which are deemed to be in order. Apart from petty cash and other payments from advance accounts, the normal payment of money due from the Council will be by BACS or other instrument drawn on the Council's banking accounts by the Section 151 Officer

6.6.7. After 31 March each year, the Section 151 Officer will provide Chief Officers with a certified schedule of accounts outstanding relating to their department for the previous financial year.

## 6.7. **Late Payment Rules**

6.7.1. The council is legally obliged to settle undisputed commercial invoices within 30 days.

## 6.8. **Imprest Accounts (Petty Cash, Advances and Cash Floats)**

6.8.1. The Section 151 Officer will determine the need for imprest accounts, intended for purpose of paying petty cash, meeting expenses or for providing change.

6.8.2. Alternative procurement options must be explored before purchasing through petty cash. Petty cash should only be used for small transactions where it is quicker and more efficient to buy goods locally rather than by official order or use of Corporate Purchase Cards.

6.8.3. No income received on behalf of the Council may be paid into an advance account. Income must be banked or paid to the Council as provided elsewhere in these Rules.

6.8.4. Officers operating imprest accounts are responsible for ensuring that:

- (1) Adequate arrangements are made for the safe custody of the account
- (2) Vouchers are provided and retained to support each payment from the imprest account, including where appropriate an official receipted VAT invoice.
- (3) They are able to produce upon demand by the Section 151 Officer cash and all vouchers to the total value of the imprest amount
- (4) Account transactions are recorded promptly and charged to the appropriate budget.
- (5) Each account is reconciled and balanced at least monthly, with reconciliation sheets signed and returned to the Section 151 Officer.
- (6) They provide, upon request, the Section 151 Officer with a certificate of the value of the account held at 31 March each year, detailing the breakdown between cash at bank, cash in hand, petty cash floats advanced and vouchers.
- (7) The account 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.
- (8) They account to the Section 151 Officer for the amount advanced to them on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance.

## 6.9. **Payments to Employees and Members**

6.9.1. The Director (Communities) is responsible for putting in place the arrangements for preparing the payrolls for all salaries, gratuities, allowances (including Members Allowances) or other emoluments of employees or former employees from timesheets and other authorised documentation certified by authorised officers of the departments. Medway Council are responsible for the operational delivery of the payroll service under a formal Service Level Agreement.

6.9.2. The interpretation and application of pay scales, conditions of service and other related matters will be the responsibility of the Director (Communities) with whom the other Directors will confer, as necessary, in connection with their application to employees in the departments.

6.9.3. Appointments of all employees will be made in accordance with the law and the policies of the Council.

- 6.9.4. The Director (Communities) will consult with the Monitoring Officer and the Section 151 Officer about the necessary level of information and certification to be contained in timesheets and other payroll documentation.
- 6.9.5. The method of payment of employees, former employees or Members is by Banking Automated Clearing Services (BACS.). Utilisation of any other payment method will only take place with the authorisation of the Section 151 Officer.
- 6.9.6. Chief Officers will notify in writing to the Section 151 Officer and Human Resources Manager as early as possible of all matters affecting the payment of such emoluments, including:
- (1) appointments, dismissals, resignations or suspensions;
  - (2) absences from duty (other than for annual, discretionary, or sick leave);
  - (3) transfers or secondments;
  - (4) proposed changes of employee remuneration, other than normal increments and pay awards, compensation and agreements of general application.

together with such other information as is necessary to maintain adequate personnel records, maintain record for superannuation, income tax, national insurance and other deductibles and enable effective payroll administration.

- 6.9.7. The arrangements for maintaining proper national insurance, income tax and other statutory pay records will be the responsibility of the Director (Communities). Chief Officers are responsible for ensuring that:
- (1) all persons employed by the authority are added to the authority's payroll.
  - (2) all payments to staff (other than those for which a dispensation is held) are made via the Council's payroll system;
  - (3) confirmation is sought from suppliers of labour other than employees (e.g. "consultants") that they are not liable to deduction of tax and national insurance as if they were an employee, i.e. by obtaining evidence of Schedule D employment of CIS status.

## 6.10. **Travel and Subsistence Allowances**

- 6.10.1. Any claim for business mileage, post-entry training expenses, subsistence allowances or other incidental expenses should be duly evidenced, certified and submitted through the payroll system or to the Director (Communities).
- 6.10.2. All claims should be submitted within three months of the activity associated with the claim taking place.

## 6.11. **Taxation**

- 6.11.1. Chief Officers are responsible for seeking advice from the Section 151 Officer on all taxation issues that affect the Council. The Section 151 Officer is responsible for providing such advice as is requested, in the light of guidance by appropriate bodies and relevant legislation as it applies.
- 6.11.2. Chief Officers are responsible for ensuring that VAT can be correctly and accurately accounted for within the Council's accounts in accordance with HM Customers and Excise Regulations. This will include:-
- (1) establishing the correct VAT liability for services or goods supplied thus ensuring that VAT is charged and paid over;
  - (2) ensuring tax liabilities under the Construction Industry Scheme and any other schemes can be identified and applied;
  - (3) ensuring that VAT on income is declared / accounted for in the correct accounting period;
  - (4) obtaining VAT invoices / VAT authenticated receipts in respect of all payments, which include a VAT charge;
  - (5) taking advice on all property and land transactions, which could impact upon the Council's ability to fully recover VAT.
- 6.11.3. The Section 151 Officer 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.
- 6.11.4. The Section 151 Officer or his authorised representative will be responsible for liaising with HM Revenue and Customs on all VAT related matters and for submitting and signing the necessary returns/claims in a timely manner.
- 6.11.5. In all circumstances where any one transaction exceeds £50,000, the Chief Officer will be responsible for obtaining the specific confirmation of the Section 151 Officer or his authorised representative that any VAT liability has been properly assessed. Such confirmation should, if possible, be obtained prior to entering into any contractual agreement.

## 6.12. **Commercial Operations/Alternative Business Structures**

- 6.12.1. Chief Officers are responsible for consulting the Section 151 Officer and Monitoring Officer in the consideration of commercialisation of any non-statutory activity undertaken by the council.

## 6.13. **Fees and Charges**

- 6.13.1. Chief Officers will ensure that all rents, fees and charges are reviewed at least annually in accordance with the Council's budget setting framework and Charging Strategy.

- 6.13.2. Where it is proposed to introduce, revise or discontinue a discretionary scale of fees and charges, the Section 151 Officer should be consulted before the proposal is progressed. Any such action will also need approval from the relevant Cabinet Member.

## **7. External Arrangements**

### **7.1. Partnerships and shared working arrangements**

- 7.1.1. The Council has defined a partnership as an “agreement between the Council and one or more independent bodies to work together to achieve one or more objectives”. A shared working arrangement is one whereby the Council chooses to work with another local authority to deliver a service or function of the council.
- 7.1.2. Chief Officers are required to give due consideration to the council’s Working in Partnership Framework in setting up, managing or ending partnership arrangements and/or shared working arrangements between the Council and other organisations.
- 7.1.3. Directors are responsible for ensuring that the requirements of the Working in Partnership Framework are met for all partnerships and shared working arrangements in which their departments are involved.
- 7.1.4. The Monitoring Officer and the Section 151 Officer are responsible for ensuring sound advice is given in relation to legal and financial aspects of the partnerships and shared service arrangements either in place or being proposed.
- 7.1.5. Cabinet Portfolio Holders, in consultation with the Leader of the Executive, have overall responsibility for overseeing and reviewing the partnerships and shared working arrangements in which the council participates.

## **8. Local Authority Trading Company Accounting**

- 8.1 The Cabinet will be responsible for the allocation of funding to Rosherville Limited and/or its subsidiaries, subject to there being sufficient budgetary provision which has been approved by Full Council.
- 8.2 Officers will be responsible for:
  - a) ensuring annual accounts are produced in a timely manner and presented for external audit review.
  - b) as necessary, ensuring the Company is registered for VAT and that this is levied at the appropriate rate.
  - c) providing budgetary support to Rosherville Limited and/or its subsidiaries to enable the company to manage its financial affairs accordingly.
- 8.3 These services will be provided to Rosherville Limited and/or its subsidiaries through a formal service level agreement.

## **9. Review of these Rules**

- 9.1. From time to time, and at least every three years, these rules will be reviewed with recommendations made for any changes considered necessary and desirable to ensure that the Council maintains robust supervision and control of the financial arrangements of the Council.
- 9.2. Any amendment to add to, vary or revoke these Financial Procedure Rules will be considered and adopted by Full Council.

## Annex 2.7: Contract Procedure Rules

### 1. Scope and Application of these Rules

- 1.1 These Rules apply to contracts entered into by the Council for the supply of goods or materials, the provision of services or for the execution of works.
- 1.2 These Rules shall also apply where a contract is let by, and the benefit received is legally due to the Council, notwithstanding the fact that the cost of the contract (either in whole or in part) may be directly borne by, or subsequently recovered from, a Third Party.
- 1.3 These Rules shall not apply if compliance would result in a contravention of domestic law or European Union legislation relating to the letting of contracts.
- 1.4 Where the Council is acting on behalf of a third party organisation or as the lead authority in any joint procurement arrangements with other local authorities, public sector bodies or private sector organisations, including procurement consortiums; the requirements of these Rules shall take precedence unless otherwise agreed by mutual consent or to ensure legislative compliance.
- 1.5 Any joint procurement initiative with other local authorities, public bodies or private sector organisations shall be advised to Legal Services and Procurement prior to the commencement of any procurement processes.
- 1.6 All other contracts shall be let in strict accordance with these Rules unless the Cabinet determines otherwise, in which event the reason for any exception granted shall be recorded in the Minutes of the meeting of the Cabinet that authorised the action.
- 1.7 The Director (Corporate Services) and the Assistant Director (Corporate Services) shall be responsible for monitoring compliance with these Rules and shall report any contravention to the Monitoring Officer.
- 1.8 Chief Officers are the Chief Executive, Directors and Assistant Directors of the Council.
- 1.9 Officers shall declare to the Monitoring Officer any personal interest that might affect, or be seen to others to affect, their impartiality or decision making.

### 2. Budgetary Provision Required for Contracts

- 2.1 No contract shall be entered into unless budgetary provision (including provision by way of authorised virement) has been made within the revenue estimates or an approved programme of capital works.
- 2.2 This requirement shall not apply where expenditure is recoverable from a third party under any agreement or contract or any statutory provision or where such expenditure is met by a contribution from a reserve fund.



- 2.3 Subject to the Policy Framework and Budget Procedure Rules in Annex 2.3 to this Constitution, the Leader of the Executive or a Chief Officer may however, authorise expenditure to meet immediate needs created by a sudden emergency or which is authorised under the provisions of Section 138 of the Local Government Act 1972, subject to a report being made forthwith to the Cabinet.

### **3. Method of Awarding Contracts**

- 3.1 The normal method of awarding contracts shall be by way of competition. However nothing in these Rules shall require more than one quotation to be sought where:-
- (1) the value of the contract is less than such amount as is specified from time to time by the Director (Corporate Services) (currently £10,000);
  - (2) no alternative provider is available;
  - (3) the goods, services or works required have been previously subjected to competition and where alternative goods, works or services would not be technically or aesthetically compatible with those already supplied or where this could result in the provision of conflicting advice;
  - (4) the appropriate Chief Officer in consultation with the Director (Corporate Services) considers that it is not reasonably practicable or in the Council's best interest to seek competition.
- 3.2 Unless specified by a Committee, the manner of seeking competition shall be determined by the appropriate Chief Officer, who shall select the most appropriate method of evaluating paragraphs 8 to 14 (inclusive) of these Contract Procedural Rules in numerical order, having regard to any obligations imposed by any other paragraphs within these Rules.
- 3.3 Where the work to be executed is already described in any contract based upon a schedule of rates, there shall be no requirement to seek quotations under any of these Rules during the term of such a contract and the work may be awarded to the most relevant contractor or to the most suitable contractor where a standing panel of contractors has been appointed.
- 3.4 Where less than the minimum number of quotations or tenders are received, the appropriate Chief Officer shall consult the Director (Corporate Services) and they shall determine jointly whether to invite fresh expressions of interest or to accept one of the quotations or tenders submitted.

### **4. Contents of Contracts**

#### **4.1 Specification, Price and Time**

Every written contract shall specify:-

- (1) the goods or services to be supplied, or the works to be executed.
- (2) the terms and conditions of contract that will apply.

- (3) the price to be paid, with a statement of discount or other deductions.
- (4) the time or times within which the contract is to be performed.

#### 4.2 **Liquidated Damages and Performance or Guarantee Bond**

- (1) A provision for liquidated damages shall be included in the contract terms where the Chief Officer considers such an inclusion is necessary for the effective management of the contract.
- (2) The Director (Corporate Services) must be consulted about whether a performance or guarantee bond is required where:-
  - (a) the total value of the contract is expected to exceed £300,000; or
  - (b) there is reasonable concern about the financial stability of the tenderers; or
  - (c) 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 financial stability of the tenderer.

Where the provision of such security by the contractor to the Council and by way of a performance or guarantee bond is required it shall be with an approved financial institution in a sum equivalent to 10 per cent of the contract sum, unless the Director (Corporate Services) accepts a bond for a lesser sum or makes such other arrangements with the contractor as may be desirable or necessary. If a bond is required it should be referred to or included in the invitation to tender. A suitably drafted document will be provided by Legal Services.

#### 4.3 **British, European and International Quality Standards**

- (1) where a specification or code of practice issued by the British Standards Institution (or a European or International equivalent) is current at the date of quotation or tender, wherever appropriate it shall be required that all goods used and all workmanship shall be in accordance with such specification or code of practice.
- (2) where there is a European standard, implemented by a British standard or a common technical specification this must, where appropriate, be used in all specifications where the procurement is covered by the European Directives. In such procurements European standards will take precedence over other standards except where their use is precluded by a statutory duty.

#### 4.4 **Prevention of Corruption**

Every written contract shall contain a clause entitling the Council to cancel the contract and to recover any losses arising from so doing from the contractor, if they, their employees or any other persons acting on their behalf in relation to the contract or any other Council contract:-

- (1) have offered, promised or given any gift or inducement which is designed to influence the award or execution of the contract; or
- (2) have been convicted of any offence under the Prevention of Corruption Acts, 1889 – 1916 or under section 117 (2) of the Local Government Act 1972 or any other legislation which may subsequently be enacted.

## **5. Appropriately Qualified Contractors**

- 5.1 No person shall be invited to submit a quotation or tender where the appropriate industry, commerce or profession has adopted a recognised standard or competence on behalf of its Members unless such person can demonstrate that they are duly accredited.
- 5.2 Wherever any part of the proposed works or process to be performed is regulated by legislation or a code of practice such contracts shall only be let to persons who can prove that they can meet the necessary standards or other requirements.
- 5.3 When awarding contracts which require or are expected to require the use of sub or nominated contractors, to a main contractor, it is incumbent upon officers to ensure that the main contractor and the associated sub or nominated contractors are accredited in accordance with Contract Procedure Rule 9. This rule will also apply to the appointment of sub-consultants.
- 5.4 Where the Council is undertaking joint procurement work with other local authorities, public or private sector organisations and the voluntary sector, officers must satisfy themselves that the designated supplier accreditation process provides comparable and acceptable levels of accreditation to the standards required by its appointed accreditation service. Officers shall retain documentary evidence detailing their conclusions.

## **6. Nomination of Sub-Contractors**

Where the Council nominates a sub-contractor or supplier to the main contractor then such appointment shall be in accordance with these Contract Procedure Rules.

## **7. Appointment of Consultants**

- 7.1 Unless the Cabinet determines to appoint a consultant, the appropriate Chief Officer shall, before seeking quotations or tenders, satisfy the Director (Corporate Services) as to the reasons why such work cannot be undertaken by officers and shall also demonstrate that the most appropriate persons will be invited to submit a quotation or tender for the particular services required.

Where the Director (Corporate Services) approve the seeking of quotations or tenders the Procurement Manager shall be informed by the appropriate Chief Officer.

- 7.2 All consultants appointed by the Council shall be appointed in accordance with these Contract Procedure Rules. Where the Council uses consultants to act on its behalf in relation to any procurement the Chief Officer shall ensure that the consultants carry out any procurement in accordance with these Contract Procedure Rules. No consultant shall make any decision on whether to award a contract or who a contract should be awarded to.
- 7.3 Consultants shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the relevant Chief Officer for the periods specified in the respective agreements.

## **8. European Union Procurement Directives and Regulations**

Notwithstanding any other provision contained in these Rules, all contracts for the supply of goods or services, or for the execution of works:-

- (1) which exceed during the period of the contract such value as may be prescribed from time to time known as the EU Threshold, details of which shall be maintained by the Director (Corporate Services) and
- (2) the letting of which are regulated by the EU Procurement Directive or Regulations.

shall be let in accordance with the requirements of the Directives or Regulations and in consultation with the Director (Corporate Services) or such other person which he/she may nominate to act on his/her behalf.

8.2 Paragraphs 10, 11, 12 and 14 of these Contract Procedure Rules shall not apply to those contracts covered by Paragraph 8.1.

## **9. Use of the Council's approved supplier accreditation database**

- 9.1 During the period of operation of the agreement between the Council and its approved accreditation database supplier, all contracts except for those described in sub – paragraph 9.3 of these Contract Procedure Rules, shall be let under the provisions of this paragraph 9.
- 9.2 For contracts let under this paragraph 9, the Contract Procedure Rules shall be varied as follows:-
- (1) paragraph 12 of these Contract Procedure Rules shall not apply (Open Tenders);
  - (2) for term contracts based upon a schedule of rates which are governed by paragraph 10 of these Contract Procedure Rules, in place of the procedures described in sub paragraphs 10.3 and 10.4, at least 5 tenders shall be sought from persons in an appropriate category of the database. The remainder of paragraph 10 shall apply in full;
  - (3) for selective tenders governed by paragraph 11 of these Contract Procedure Rules, in place of the procedures described in sub paragraphs 11.2 and 11.3, at least 5 tenders shall be sought from persons in an appropriate category of the database. If there are fewer than 5 persons in an appropriate category of the database, all should be invited to apply;

- (4) for contracts governed by paragraph 14 of these Contract Procedure Rules, the minimum number of quotes or tenders referred to in paragraph 14 shall be sought from persons in an appropriate category of the database. The remainder of paragraph 14 shall apply in full.

9.3 Tenders for contracts or work to be let described in this sub-paragraph are not required to be obtained from the database:-

- (1) contracts having a value of less than £10,000 or such other amount as is specified from time to time by the Director (Corporate Services);
- (2) contracts to be let to suppliers vetted by:-
  - (a) the Office of Government Commerce;
  - (b) the Kent Buying Consortium.
- (3) contracts to be let to another local authority;
- (4) contracts let by another local authority or appropriate public sector organisation which are sufficiently scoped to permit their use by the Council. The relevant Chief Officer shall consult with Legal Services and/or the Procurement Manager for advice before entering into any commitment or undertaking to use such a contract;
- (5) if the appropriate Chief Officer in consultation with the Director (Corporate Services) considers it is not reasonably practicable or not in the Council's best interests to use the directory;
- (6) if use of the directory would result in contravention of the domestic law or European Union legislation relating to the letting of contracts.

## **10. Term Contracts Based on a Schedule of Rates**

- 10.1 Where it is considered appropriate to let a contract based upon a schedule of rates it shall be let under the provisions of this paragraph 10 where a variety of works are to be executed within a particular trade or task, and are required recurrently and at unspecified intervals throughout the duration of the contract and where such works can be undertaken by more than one contractor.
- 10.2 The duration of the contract shall not exceed three years except with the prior approval of the Director (Corporate Services).
- 10.3 Expressions of interest shall be invited by giving at least 14 days public notice in one or more local newspapers and in one or more relevant technical journals indicating the nature of the works to be executed, the method of tendering and stating the last date for the receipt of expressions of interest and such financial and technical information as may be specified by the Director (Corporate Services) and the appropriate Chief Officer respectively.
- 10.4 Invitations to tender shall be sent to every person who satisfies the Director (Corporate Services) regarding their financial capability and the appropriate Chief Officer regarding their technical proficiency.

- 10.5 The tenders shall be based upon a rate for the execution of each item of work scheduled. Such rates shall be specified by the appropriate Chief Officer and the tenderer shall indicate the percentage addition or deduction required to cover overheads and profits.
- 10.6 If more than five tenders are received in each category, the appropriate Chief Officer shall select at least the five lowest tenderers from whom works may be ordered. If less than five tenders are received all tenderers may be used for the procurement of works.
- 10.7 In ordering work, preference shall be given to the tenderer who submits the most economically advantageous offer that gives best value for money for the Council. The most economically advantageous offer shall include price and other relevant considerations such as the capacity to execute the works by the required date; the ability to sustain required standards in relation to quality; health and safety legislation; the structure of the arrangements in place to manage the contract; and ability to conform to working arrangements prescribed from time to time. Officers may consult the Procurement Manager/ Director (Corporate Services) for advice about structuring the evaluation criteria to determine the most economically advantageous offer.

## **11. Restricted Tenders**

- 11.1 This paragraph shall become effective where it is not possible to make a selection of suitably qualified tenderers from the Council's approved supplier accreditation database.
- 11.2 This paragraph shall have effect in respect of all contracts exceeding £50,000, but below the EC threshold, or where the appropriate Chief Officer has determined that the contract shall not be let under the provisions of paragraph 12 of these Contract Procedure Rules.
- 11.3 Where a contract may also be let under paragraph 12 of these Contract Procedure Rules nothing shall prevent a Chief Officer from letting that contract under either paragraph 11 or 12 of these Rules if they consider such a course of action is appropriate.
- 11.4 Expressions of interest shall be invited by giving at least 14 days public notice by advertisement in appropriate newspapers, journals or other media which achieves a penetration of potential tenderers.
- 11.5 The advertisement will identify the nature of the works to be executed, or the goods or services to be provided and stating the last date for the receipt of expressions of interest and such financial and technical information as may be specified by the Director (Corporate Services) and the appropriate Chief Officer respectively.
- 11.6 After the expiration of the period specified in the advertisement invitations to tender shall be sent to not less than five respondents who applied for permission to tender. The selection of tenderers will be made by the appropriate Chief Officer in consultation with the Director (Corporate Services). Tenderers will be selected against pre-established written criteria including an assessment of their technical and financial capability. Where fewer than five respondents have applied to tender, all who meet the financial and technical criteria shall be invited to tender.

## 12. Open Tenders

- 12.1 This paragraph shall become effective where it is not possible to make a selection of suitably qualified tenderers from the Council's approved supplier accreditation database.
- 12.2 This paragraph shall have effect in respect of all contracts exceeding £50,000, but below the EC threshold, or where the appropriate Chief Officer has determined that the contract shall not be let under the provisions of paragraph 11 of these Contract Procedure Rules.
- 12.3 Expressions of interest shall be invited by giving at least 14 days public notice by advertisement in appropriate newspapers, journals or other media which achieves a penetration of potential tenderers.
- 12.4 The advertisement will identify the nature of the works to be executed, or the goods or services to be provided and the closing date for the receipt of tenders. The advertisement shall also state that tenderers may be required to provide such financial and technical information as may be specified by the Director (Corporate Services) and the appropriate Chief Officer respectively.
- 12.5 After the expiration of the period specified in the advertisement invitations to tender shall be sent to any party expressing an interest. All tenders which meet the qualifying conditions must be considered.
- 12.6 Legal Services or Procurement shall be consulted before the open tendering procedure is used to provide advice and guidance on its correct application.

## 13. Contracts subject to the European Procurement Directives

Where an estimated value of a contract (or two or more contracts relating to a single requirement in the aggregate) exceeds the current European Union thresholds then the contract shall be tendered in accordance with the Directives except where in consultation with Legal Services or Procurement it is agreed to use an appropriate third party contract or framework arrangement.

## 14. Invitation to Tender Dependent on Value

- 14.1 Opportunities to maximise the Council's purchasing power must be taken and officers should not enter into separate contracts nor select a method of calculating the total contract value in order to minimise the application of the Contract Procedure Rules.
- 14.2 The estimated total value of a contract shall be calculated as follows:-
- (1) 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;
  - (1) where the purchase involves recurrent transaction for the same type of item, by aggregating the value of those transactions in the coming twelve months;
  - (2) where the contact is for an uncertain duration, by multiplying the monthly payment by forty-eight;

- (4) if the Council is to enter into two or more contracts in order to meet a single requirement then the value of the contracts should be aggregated to determine whether the estimated total value exceeds or is likely to exceed the EU threshold.

14.3 The method of invitation to tender shall vary having regard to the appropriate Chief Officer's opinion as to the estimated total cost of the goods or services to be provided or works to be executed and shall be as follows:-

Estimated Total Value (£)	Requirement	Request to quote/tender to include as a minimum
(1) Up to £10,000	One quotation to be confirmed in writing.	<ul style="list-style-type: none"> <li>• Sufficient specification to enable the submission of a competitive offer.</li> <li>• Details of the quantity of goods/services to be provided.</li> <li>• Delivery requirements.</li> <li>• The proposed contract start and finish dates and to include any provisions for options and extensions. Contract periods to be reasonable and in accordance with legislation.</li> </ul>
(2) £10,000.01 to £50,000	Three written quotations.	<ul style="list-style-type: none"> <li>• As in (1) above plus:-</li> <li>• The invitation to quote to be issued to all invitees at the same time, containing the same information and subject to the same conditions.</li> <li>• The invitation to quote to be issued in writing and the responses received in writing.</li> </ul>
(3) £50,000.01 to EC threshold	Invitations to tender to at least five tenderers.	<ul style="list-style-type: none"> <li>• As in (1) and (2) above plus:-</li> <li>• Formal tender documentation to be issued and receipt and tenders to be in accordance with Contract Procedure Rule 15.</li> </ul>
(4) Above EC threshold consult the Procurement Manager or Monitoring Officer for advice	In accordance with the provisions of the European Procurement Directives.	<ul style="list-style-type: none"> <li>• As per the European Procurement Directive.</li> </ul>



**15. Receipt and Tender Opening**

- 15.1 Tenders shall be kept secure electronically and unopened until the time and date specified for their opening.
- 15.2 All tenders received by the time and date specified shall be opened within 5 working days of the closing date in the presence of the Officer from the Service or their nominee and a designated Officer from Corporate Services.
- 15.3 No tender received after the time and date specified shall be considered unless agreed by the Council's Monitoring Officer either directly or via delegation to the Chief Finance Officer.
- 15.4 The formal contract which will include the accepted Tender can be sealed or signed by Authorised Officers within Legal Services. The Authorised Officer must initial every page of a Bill of Quantities or each page of any Schedule to the Form of Tender prepared by the Tenderer.
- 15.5 A record of all tenders signed or sealed will be made and kept by the Legal Services.

**16. Late Tenders**

- 16.1 No tender or quotation will be considered unless it is received by the date and time stipulated in the invitation to tender unless the Council's Monitoring Officer either directly or via delegation to the Chief Finance Officer is satisfied that there is evidence of it having been despatched in sufficient time to have arrived before the closing date and time.
- 16.2 No details of late tenders shall be disclosed.

**17. Alterations**

- 17.1 Where examination of tenders reveals errors or discrepancies which would affect the tender figure(s) of an otherwise successful tender, the tenderer shall be given details of the same and given an opportunity of confirming or withdrawing their offer.
- 17.2 However nothing in this paragraph 17 shall prevent the appropriate Chief Officer from permitting an adjustment to the tender figure, subject to consultation with the Director (Corporate Services), in the event that to do otherwise would be financially detrimental to the Council's interests.
- 17.3 The above shall also apply in respect of quotations.

**18. Clarification procedures and post tender negotiation**

- 18.1 Providing clarification of an invitation to tender to potential or actual tenderers or seeking clarification of a tender whether in writing or by way of a meeting is permitted.
- 18.2 Post-tender negotiation means negotiations with a tenderer after submission of a tender and before the award of the contract with a view to obtaining adjustments in both price and content.

- 18.3 Where post-tender negotiations result in a fundamental change to the specification or contract terms the contract must not be awarded but re-tendered.
- 18.4 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 has previously been identified as submitting the most economically advantageous tender. Records should be kept of all meetings involving post-tender negotiations and both parties must agree actions in writing.
- 18.5 Legal Services and Audit must be consulted wherever it is proposed to enter into post-tender negotiations. Post tender negotiations must be conducted by at least two officers.

**19. Power to Accept Quotations or Tenders**

- 19.1 Acceptance of tenders and quotations for any approved expenditure is delegated to the appropriate Chief Officer up to £250,000 provided that all the following conditions are met:-
- (1) The Contract Procedure Rules have been complied with;
  - (2) the most economically advantageous tender delivering value for money is accepted; and
  - (3) there is an approved budget for the procurement to which the tender relates.
- 19.2 Acceptance of tenders for approved expenditure exceeding £250,000 shall be made by the Cabinet.

**20. Contract extension**

- 20.1 Any contract that expressly provides for a period of extension may be extended in accordance with its terms. The following conditions must apply before a contract can be extended:-
- (a) officers must be satisfied that any proposed extensions will achieve best value for money;
  - (b) there is sufficient budgetary provision or allowance for the contract in question within the medium term financial plan; and
  - (c) written records must be kept to substantiate the decision to extend a contract.
- 20.2 Where the contract terms do not expressly provide for an extension contracts may only be extended following consultation with Legal Services. Legal Services will advise on the validity of the proposed extension. The conditions for extending the contract shown in paragraphs 20.1 (a)-(c) shall apply.

- 20.3 No contract that is subject to the provisions of the European Procurement Directives may be extended unless there is a specific provision included in the contract documentation. Legal Services must be consulted about any proposals to extend a contract that is subject to the Directives. The conditions for extending the contract shown in paragraphs 20.1 (a)-(c) shall apply.
- 20.4 Recommendations for contract extensions shall be approved by the appropriate Chief Officer up to £250,000 and in all other cases authorisation shall be given by the Cabinet.

## **21. Records of tenders and contracts**

Each Chief Officer shall maintain a record of renewable contracts entered into by their department. The information will be made available to the Procurement Manager who will maintain a corporate contracts register in electronic format. The Procurement Manager will ensure that the procedure for managing the corporate contracts register is regularly reviewed and made available to officers.

## **22. Interpretation**

Except where the context otherwise requires, in these Rules:

- (1) The expression "the Council" includes the Cabinet or any Committee or Sub-Committee acting in the pursuance of delegated powers; and
- (2) References to:-
  - (a) any Chief Officer of the Council shall include a Director or any Departmental Head and shall also include such other officer as may be designated by a Chief Officer as their representative.
  - (b) any Divisional or Departmental Head shall also include such other person as may be designated by them to act as their representative.
- (3) A written contract shall mean a formal agreement prepared by the Monitoring Officer or persons appointed to act in that capacity on their behalf and which is witnessed by the signature of the respective parties to such agreement.
- (4) The expression, "consultant" shall mean a person not in the direct employ of the Authority, or an organisation, commissioned to provide specialist advice, or to produce a design for the execution of works -
  - (a) where such skills are not possessed by the Council's employees; or
  - (b) where the necessary skills are available in-house but where the Council's employees cannot undertake the project in the necessary time scale because of more pressing priorities.

## Annex 2.8: Officer Employment Procedure Rules

### 1. Definitions

- 1.1 In these Officer Employment Procedure Rules, the terms “Director” and “Chief Officer” shall, solely for the purposes of the Local Authorities (Standing Orders) (England) Regulations 2001, be treated as though they refer to “Chief Officer” and “Deputy Chief Officer” respectively.
- 1.2 For the avoidance of doubt, the term “Chief Officer” shall not mean or imply “Deputy Chief Officer” in any context other than that specified in sub-paragraph 1.1 above.

### 2. Recruitment and Appointment

#### 2.1 Declarations

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

#### 2.2 Seeking Support for Appointment

- 2.2.1 Subject to sub-paragraph 2.2.2 below:-
- (1) the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information;
  - (2) no councillor will seek support for any person for any appointment with the Council.
- 2.2.2 Nothing in sub-paragraphs 2.2.1(1) and (2) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment with another authority or organisation.

### 3. Recruitment of Head of Paid Service, Directors and Chief Officers

- 3.1 Where the Council proposes to appoint a Director or Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Director (Housing & Operations) will:
- (1) draw up a statement specifying:-

- (a) the duties of the officer concerned; and
    - (b) any qualifications or qualities to be sought in the person to be appointed;
  - (2) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (3) make arrangements for a copy of the statement mentioned in subparagraph 3.1(1) above to be sent to any person on request.
- 3.2 Where no qualified person has applied, the Director (Communities) shall make further arrangements for advertisement in accordance with subparagraph 3.1 above.

#### **4. Appointment of Head of Paid Service**

The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Appointments Board of the Council or the relevant Appointment Panel constituted from within the membership of the Appointments Board in accordance with Article 12.04 of this Constitution.

An offer of employment as Head of the Paid Service shall only be made where no material or well-founded objection has been received from the Leader of the Executive on behalf of the Cabinet within a period specified by the Proper Officer.

#### **5. Appointment of Directors and Chief Officers**

- 5.1 The Appointments Board or the relevant Appointment Panel constituted from within the membership of the Appointments Board in accordance with Article 12.04 of this Constitution will appoint Directors and Chief Officers of the Council.
- 5.2 An offer of employment as a Director or Chief Officer shall only be made where no material or well-founded objection has been received from the Leader of the Executive on behalf of the Cabinet within a period specified by the Proper Officer.

#### **6. Other Appointments**

##### **6.1 Officers below Chief Officer Level**

The appointment of officers below Chief Officer level (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.

##### **6.2 Assistants to Political Groups**

In the event that the Council authorises the appointment of political assistants, then such appointments shall be made in accordance with the wishes of the Leader of the relevant political group in each case.

**6.3. Appointments to Local Authority Trading Company Boards**

In establishing the Local Authority Trading Company and/or any subsidiaries, the Cabinet will be responsible for the appointment of Directors to the company Boards.

**6.4. Requirement of officers to work on behalf of the Local Authority Trading Company and/to its subsidiaries**

Whilst employed by Gravesham Borough Council, officers may be required to provide assistance to Rosherville Limited and/or its subsidiaries to deliver services to the public. Any such arrangements will be delivered through a formal agreement; Gravesham Borough Council will continue to be the employing body.

**7. Disciplinary Action**

**7.1 Statutory Officers**

7.1.1 The Chief Finance Officer, Head of the Council's Paid Service or Monitoring Officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

7.1.2 The Council must invite Relevant Independent Persons to be considered for appointment to a committee appointed by the authority under section 102(4) of the Local Government Act 1972(3) for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council ("the Panel"), with a view to appointing at least two such persons to the Panel. "Relevant Independent Person" means any Independent Person who has been appointed by the Council or, where there are fewer than two such persons, such Independent Persons as have been appointed by another authority or authorities as the Council considers appropriate.

7.1.3 Subject to paragraph 7.1.4, the Council must appoint to the Panel such Relevant Independent Persons who have accepted an invitation in accordance with the following priority order:-

- (a) a Relevant Independent Person who has been appointed by the Council and who is a local government elector;
- (b) any other Relevant Independent Person who has been appointed by the Council;
- (c) a Relevant Independent Person who has been appointed by another authority or authorities.

7.1.4 The Council is not required to appoint more than two Relevant Independent Persons in accordance with paragraph 5 but may do so. The Council must appoint any Panel at least 20 working days before the relevant meeting.

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

- (a) any advice, views, or recommendations of the Panel;

- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

**7.2** Any remuneration, allowances or fees paid by the Council to an Independent Person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person's role as Independent Person under the Localism Act 2011.

**7.3 Officers below Chief Officer Level**

7.3.1 Directors and Chief Officers will be responsible for dealing with all disciplinary matters in respect of all officers below Chief Officer level.

7.3.2 All such disciplinary action shall be taken in accordance with these Officer Employment Procedure Rules and the Council's Disciplinary Code for Officers as may be adopted from time to time, and the requirements of natural justice.

**7.4 Involvement of Councillors**

7.4.1 Except as provided in paragraphs 7.1.1 (discipline of Statutory Officers), 8.3, 8.4 and 8.5 (appeals against dismissal) of these Officer Employment Procedure Rules councillors will not be involved in determining the disciplinary action to be taken against any officer of the Council.

7.4.2 However, councillors may be involved in an investigation or inquiry into matters which may be the subject of disciplinary action.

**8. Dismissal**

8.1 No Officer of the Council shall be dismissed other than in accordance with the requirements of the law, the Council's Disciplinary Code as adopted from time to time, and these Officer Employment Procedural Rules.

8.2 No notice of dismissal of a Head of Paid Service, Chief Finance Officer, Monitoring Officer, Chief Officer or political assistant shall be issued unless, within a period specified by the Proper Officer, no material or well-founded objection has been received from the Leader of the Executive on behalf of the Cabinet.

8.3 The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer shall each have a right of appeal to the full Council against a decision of a Disciplinary Panel to dismiss him/her. Any such request shall be made in writing to the Service Manager (Communities) within seven days of a dismissal decision being issued by a Disciplinary Panel, and shall state the grounds for appeal. The Service Manager (Communities) shall then summon a meeting of the Council to be held within 14 days of any such request being made.

8.4 All other officers shall have a right of appeal against dismissal to an Appeals Panel appointed by the Council. The Appeals Panel shall comply with the political proportionality rules and shall comprise a minimum of three councillors.

- 8.5 In the event that an officer exercises his/her right of appeal to Members under paragraph 8.4 above, no Member who has taken part in any investigation or inquiry into allegations or matters which subsequently form all or part of the evidence on which the dismissal decision was based may sit on the Appeals Panel established to hear the appeal.

**9. Contracts of Employment**

All contracts of employment for officers of the Council shall include provisions giving effect to these Officer Employment Procedure Rules as they apply to the particular post concerned.