

**G. Accounting and Audit Rules**

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## **G Accounting and Audit Rules 2017**

### **1. General**

- 1.1 These Rules, in conjunction with the Procurement Rules, comply with the requirements for Standing Orders under Section 135 of the Local Government Act 1972.
- 1.2 The purpose of the Rules is to ensure that the Council's financial affairs are conducted with openness, probity and accountability. The ~~Director of Finance~~Assistant Director Finance is responsible to the Council for the proper administration of the financial affairs of the Council, as required by Section 151 of the Local Government Act 1972.
- 1.3 In these Rules the following definitions apply:

Chief Officer	One of the following: Chief Executive, <del>Deputy Chief Executive, Director of Finance</del> <u>Director of Corporate Services, Director of People and Place</u>
Contract	Any form of contract, agreement, or other arrangement, for the supply of goods, services, or works
<del>Director of Finance</del> <u>Assistant Director Finance</u>	<u>Chief Finance Officer, it</u> Includes the <del>Director's Chief Finance Officer's appointed</del> deputy, <del>the Assistant Director Financial Services.</del>
Executive Member	A member of the Council's Executive
Leader	The Leader of the Council, as appointed by full Council
Management Team	The <u>senior leadership team comprising the</u> Chief Executive, <u>Director of Corporate Services and Director of People and Place.</u> <del>Deputy Chief Executive, Director of Finance, Deputy Directors and Assistant Director Commercial Services and Assistant Director Organisational Development.</del>
Senior Manager	<del>Any officer who is part of Management Team and the Assistant Director Legal Services, Assistant Director Financial Services, Assistant Director Revenues and Benefits, Assistant Director Customer Services and Transformation</del> <u>A Chief Officer, Assistant Directors and any Heads of Service.</u>

Services	Includes all services which the Council purchases, or obtains, including advice, specialist consultancy work and agency staff
Virement	Where one or more budgets are reduced to fund an increase in another budget(s). There is no net change in the total budget arising from a virement. <u>Also includes grossing up of budgets where additional income is received.</u>
Works	Covers all construction and property-related procurement

- 1.4 Each Senior Manager shall consult the ~~Director of Finance~~Assistant Director Finance with respect to any matter which is liable to affect the approved income or expenditure contained in the annual budget of the Council.

## 2. Budget

- 2.1 The form of capital and revenue estimates shall be determined by the ~~Director of Finance~~Assistant Director Finance.
- 2.2 Estimates of capital and revenue income and expenditure shall be prepared by each Senior Manager, in conjunction with the ~~Director of Finance~~Assistant Director Finance, who shall collate the estimates for consideration by Management Team and the relevant Executive Members and submit them to the Executive. The Executive shall submit a draft budget to the Scrutiny Co-ordinating Board at the latest by the first working day after 14 December each year. The Scrutiny Co-ordinating Board shall respond by the first working day after 21 January each year. The Executive shall consider the response of the Scrutiny Co-ordinating Board and then recommend a budget to the Council at a meeting by the end of January each year.
- 2.3 Upon approval by the Council of the capital estimates, each Senior Manager, in conjunction with the ~~Director of Finance~~Assistant Director Finance, shall be authorised:
- to take steps to enable land required for the purposes of the programme to be acquired in due time; and
  - to prepare a scheme and estimate, including a financial appraisal, for approval by the appropriate Executive Member.
- 2.4 Any proposals which commit future budgets to a level of expenditure greater than that provided for in the current year shall be reported by the relevant Senior Manager to the appropriate Executive Member and the Executive. The ~~Director of Finance~~Assistant Director Finance shall be consulted on the draft report.

2.5 Each Senior Manager shall ensure that the authorised budget holders in his or her department monitor the revenue and capital budgets for which they are responsible. The ~~Director of Finance~~Assistant Director Finance shall ensure that the Financial Management System is up-to-date and that all authorised budget holders are appropriately trained in its use.

2.6 Where there is, or may be, any material variation (over 10%) in the actual expenditure, or income against the approved estimate, for any service or business unit, it shall be the duty of the Senior Manager concerned to consult with the ~~Director of Finance~~Assistant Director Finance and to report to the Executive Member as appropriate. There is no authority for officers to overspend. When an overspend is projected, a virement or supplementary estimate must be identified.

### **3. Accounting**

3.1 All accounting procedures and records of the Council and its officers shall be determined by the ~~Director of Finance~~Assistant Director Finance. Such procedures shall have regard to current statutory requirements. Where such procedures and records are maintained in a department other than that of the ~~Director of Finance~~Assistant Director Finance, the ~~Director of Finance~~Assistant Director Finance shall, before making any changes, consult the relevant Senior Manager of the department concerned.

3.2 The duties of providing information regarding sums due to, or from the Council, or of calculating, checking and recording these sums, shall, as far as possible, be separated from the duty of collecting or disbursing them.

### **4. Virements (see definition in paragraph 1.3)**

#### **4.1 Revenue**

4.1.1 Virements can relate to either:

- the current budget only; or
- to the base recurring budget.

This should be clearly stated on the virement form (see 4.1.6 below).

4.1.2 Virements can relate to non-staff costs and staff costs (but see 4.1.5 below).

4.1.3 Any virement requested must be appropriately approved as follows:

Value of Virement	Virement Between			
	Expenditure Codes within a Business Unit or Service	Business Units or Services within a Portfolio	Portfolios	Any Property Maintenance Budgets
Less than £10,000	Budget Manager	Budget Manager	Relevant Executive Members (Portfolio Holders)	Budget Manager
£10,000 or more but less than £20,000	Relevant Senior Manager	Relevant Senior Manager	Relevant Executive Members (Portfolio Holders)	Relevant Senior Manager
£20,000 or more but less than £50,000	Relevant Senior Manager	Relevant Executive Member (Portfolio Holder)	Relevant Executive Members (Portfolio Holders)	Relevant Executive Members (Portfolio Holders)
£50,000 or more	Relevant Senior Manager	Full Council	Full Council	Full Council

No virement request will be processed by the Financial Services Section until evidence of approval, as above, is received (see 4.1.6 below).

4.1.4 Virement resulting from tender submissions will not require Executive Member approval where such virement:

- a) results from a tender being in excess of budget provision; and
  - b) does not exceed 10% of the agreed budget for the scheme; and
  - c) can be funded from uncommitted schemes within the same portfolio.
- Any such virement shall be reported to the relevant Executive Member.

4.1.5 When a recurring virement increases the permanent staffing establishment by more than a 0.5 full time equivalent, the virement must be approved by the Executive.

4.1.6 To make a virement the relevant budget holder should e-mail a completed virement form to the Financial Services Section (Fin.Man@eden.gov.uk). The form is available on SharePoint: Corporate Centre/Financial Services Forms and Procedures/Virement Form. Where the approval of the relevant Senior Manager or the relevant Senior Manager and the Executive Member is required by these Rules, the virement form should be forwarded by the budget holder for approval by e-mail. After the final approval by the relevant Senior Manager or the Executive Member, the virement form and covering e-mail should be forwarded to the Financial Services Section (Fin.Man@eden.gov.uk).

4.1.7 Virements should not be artificially disaggregated.

4.1.8 The virement rules can be applied to grossing up of income and expenditure budgets, for example, on receipt of additional grant, external contributions or draw down from an earmarked reserve (unless specific delegations are in place). Where this is the case, the limits for expenditure codes within a

business unit or service should be applied unless greater than £50,000 in which case Portfolio Holder approval should be sought.

## **4.2 Capital**

4.2.1 The provisions, as set out in 4.1, shall apply to capital.

## **5. Supplementary Estimates**

5.1 A supplementary estimate is an addition to the Council's agreed budget. Supplementary estimates can be one-offs, or recurring. In either case, supplementary estimates should only be considered after all other options, such as virements, or savings, have been considered.

5.2 All supplementary estimates, either revenue or capital, require the approval of the Executive. Referral to Council is not required if the value of a supplementary estimate is less than £50,000. For this purpose, a recurring supplementary estimate is evaluated as five times the annual value.

5.3 Once approved by the Executive, or Council, the Financial Services Section will amend the budgets held within the Financial Management System.

## **6. Advance Accounts**

6.1 The ~~Director of Finance~~Assistant Director Finance shall provide such advance accounts as he / she considers appropriate for such officers of the Council as may need them. Advance accounts for petty cash purposes shall be maintained on the Imprest system. Arrangements for safe custody of Imprest advances shall be subject to the approval of the ~~Director of Finance~~Assistant Director Finance.

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

6.3 Payments shall be limited to minor items of expenditure (less than £50) and to such other items as the ~~Director of Finance~~Assistant Director Finance may approve and shall be supported by receipted vouchers.

6.4 An officer responsible for an advance account shall, if so requested, give to the ~~Director of Finance~~Assistant Director Finance a certificate as to the state of his / her advance account.

6.5 On leaving the employment of the Council, or otherwise ceasing to be entitled to hold an advance, an officer shall account to the ~~Director of Finance~~Assistant Director Finance for the amount advanced to him/her.

## **7. Internal Audit**

- 7.1 This section is based on the 2017 Public Sector Internal Audit Standards (PSIAS) issued by the Relevant Internal Audit Standard Setters which includes the Chartered Institute of Public Finance and Accountancy (CIPFA) for UK Local Government Authorities. It also complies with the provisions of the Accounts and Audit Regulations 2015.
- 7.2 Internal Audit shall annually undertake an objective assessment of the framework of risk management, control and governance processes within the Council.
- 7.3 The ~~Director of Finance~~Assistant Director Finance will maintain an adequate and effective system of Internal Audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control. Such proper internal control practices for Internal Audit are those included in the PSIAS. The ~~Director of Finance~~Assistant Director Finance will also conduct an annual review of the effectiveness of the system of internal control.
- 7.4 The ~~Director of Finance~~Assistant Director Finance shall be Head of Internal Audit (or Chief Audit Executive as defined in the PSIAS). He / she is responsible for overseeing the work of the in-house Auditor and the external contractor, as well as submitting various reports to the Accounts and Governance Committee, as detailed in 7.5 and 7.8 below. He/she must also ensure that there are established policies and procedures to guide the Internal Audit activity.
- 7.5 The ~~Director of Finance~~Assistant Director Finance must deliver an annual Audit Opinion and report for consideration by the Council to inform the Annual Governance Statement. The annual internal Audit Opinion must conclude on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control. The annual report must include the Opinion, a summary of the work that supports the Opinion and a statement on conformance with the PSIAS and the results of the quality assurance and improvement programme.
- 7.6 When any non-conformance with the PSIAS impacts on the overall scope or operation of the Internal Audit activity, the ~~Director of Finance~~Assistant Director Finance must disclose the non-conformance and the impact of this to Management Team and the Accounts and Governance Committee. If the deviation is significant, consideration must be given to including it in the Annual Governance Statement.
- 7.7 The ~~Director of Finance~~Assistant Director Finance also has some operational responsibilities for some of the functions that are audited. Given Eden's small size, it is not practicable to comply with PSIAS 1130.A2, which requires that such work is overseen by a party outside the Internal Audit activity. To ensure that as much independence and objectivity as possible is maintained in such circumstances, the ~~Director of Finance~~Assistant Director Finance as Head of Internal Audit, does not undertake any actual audit assignments. The Senior Auditor and external contractor are given full authority to report directly to the Chief Executive, the ~~Deputy Chief Executive~~Director of Corporate Services or the Accounts and Governance



Committee, if they have any concerns about suppression of audit evidence, or the conduct of the ~~Director of Finance~~Assistant Director Finance.

- 7.8 Those functions of an audit committee relating to Internal Audit shall be undertaken by the Accounts and Governance Committee. These responsibilities are:
- a) to consider the Strategic Internal Audit Plan report. This shall be submitted each year after consideration by the Council's Management Team. This will also consider the adequacy of audit resources;
  - b) to consider internal audit reports. Summaries of individual audit reports are to be submitted after agreement of the final report with management. This will also detail any recommendations rejected and any failure to implement recommendations from the previous audit;
  - c) to consider the annual Internal Audit report and annual Internal Audit Opinion. These shall be submitted within three months of the end of each financial year;
  - d) to monitor the implementation of agreed audit recommendations. Such monitoring shall be reported to each meeting;
  - e) to consider any other audit and financial investigation reports;
  - f) to approve the Internal Audit Charter. This shall be submitted each year after consideration by the Council's Management Team. The Internal Audit Charter is a formal document that defines Internal Audit's purpose, authority and responsibility. Key requirements of the Charter are included in these Rules;
  - g) to receive reports on the results of external and periodic internal assessments of the Internal Audit service.
- 7.9 Senior Managers are responsible for ensuring that appropriate and adequate internal controls exist, independently of any Internal Audit activity. Senior Managers must 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 performance targets.
- 7.10 When an Internal Audit report is issued, it is for management to decide whether to accept and implement audit findings and recommendations. Any decision to reject a formal recommendation must be justified, in writing, on the Schedule of Recommendations issued by Internal Audit within the audit report at the end of each audit assignment. It is the Head of Internal Audit's duty to consider taking matters to a higher level of management or to the Accounts and Governance Committee, if non-acceptance of a recommendation would lead to an unacceptably high risk.
- 7.11 The ~~Director of Finance~~Assistant Director Finance and all Internal Audit staff shall have authority at all reasonable times to:

- a) enter lawfully on any Council premises or land;
- b) have access to all records, documents and correspondence relating to any financial or other transactions of the Council;
- c) require and receive such explanations from all officers and Members of the Council as deemed necessary concerning any matter under examination; and
- d) require any officer or Member of the Council to produce cash, stores, or any other Council property under his or her control.

7.12 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores, or other property of the Council, or any suspected financial irregularity in the exercise of the functions of the Council, the Senior Manager concerned shall, forthwith, notify the ~~Director of Finance~~, Assistant Director Finance or Internal Audit, who shall ensure that such steps have been, or are taken, as he / she considers necessary, by way of investigation and report. The ~~Director of Finance~~ Assistant Director Finance will keep the relevant Senior Manager appropriately informed of any matter under investigation.

7.13 Internal Audit has the right to report directly to the Chief Executive, the ~~Deputy Chief Executive~~ Director of Corporate Services, external audit, the Accounts and Governance Committee, or the Leader of the Council, if warranted by the circumstances.

7.14 An internal and external protocol shall co-ordinate its work with the appointed external auditor for the benefit of the Council and to avoid duplication of effort. An Internal Audit protocol shall be maintained to set out the basis for the managed audit arrangements between the Council's Internal Audit service and the external auditor.

7.15 The performance of Internal Audit will be monitored on an ongoing basis as part of the routine policies and practices used to manage the activity. Periodic assessments will be conducted to evaluate conformance with the Definition of Internal Auditing, the Code of Ethics and the Standards contained within the PSIAS.

7.16 External assessments of the Internal Audit service must be conducted at least once every five years by a qualified, independent assessor, or assessment team from outside the Council. This assessment may take the form of a full external assessment or a self-assessment with independent external validation.

7.17 Internal Audit will co-ordinate the Council's response to the National Fraud Initiative and investigate a sample of returned matches, in particular, 'key' and 'recommended' matches. Matches will also be investigated by other sections with responsibility for their associated match categories.

- 7.18 Senior Managers or other managers entering into agreements with third parties shall include a requirement that the Council's Internal Audit Section has a right of access to all documentation and records in which the Council has a financial interest.

## **8. Banking Arrangements, Cheques and BACS**

- 8.1 All arrangements with the Council's bankers shall be made by the ~~Director of Finance~~Assistant Director Finance, who shall be authorised to operate such banking accounts as he may consider necessary.
- 8.2 All cheques shall be ordered only on the authority of the ~~Director of Finance~~Assistant Director Finance, who shall make proper arrangements for their safe custody.
- 8.3 Cheques on the Council's main banking accounts shall be signed by the ~~Director of Finance~~Assistant Director Finance, or other officer authorised to do so. All cheques drawn for an amount of £10,000 or more shall be countersigned by an authorised officer of the ~~Director of Finance~~Assistant Director Finance's ~~Department~~Section.
- 8.4 The use of BACS should be maximised both for payments and income.

## **9. Contracts for Building, Construction, Engineering, or Consultancy Work**

- 9.1 These Rules apply to the accounting treatment of contracts after they have been awarded. The tendering and award of contracts for building, construction, engineering, or consultancy work, is covered by the Procurement Rules. Nothing in these Rules shall detract from duties or responsibilities of the officers, or consultant, as specified in the contract.
- 9.2 A written agreement specifying conditions of engagement, including the basis of remuneration, shall be entered into with every consultant appointed for the purpose of any contract work. The agreement shall specify that any consultant engaged by the Council will be subject to the requirements of these Rules.
- 9.3 Where contracts provide for payment to be made by instalments, the officer responsible for the contract shall maintain a record of the state of account of the contract. Once the final account is agreed, the ~~Director of Finance~~Assistant Director Finance should be notified.
- 9.4 Payments to contractors on account of contracts for works shall be made only on a certificate issued by the relevant Senior Manager of the department concerned, officer, or consultant engaged by the Council, as may be appropriate. Each certificate shall show as follows:
- a) the amount of the contract;
  - b) the value of the work executed to date;

- c) the total amount previously certified;
  - d) the retention money; and
  - e) the amount to be certified for payment. All certificates shall be issued and payments on account to contractors shall be made promptly.
- 9.5 Subject to the provisions of the contract, in each case, every extra provision or variation shall, unless otherwise evidenced to his or her satisfaction, be authorised in writing by the relevant Senior Manager.
- 9.6 The relevant Senior Manager may issue variations for constructional reasons and those arising from unforeseen circumstances occurring during the period of the contract, from errors in the preparation of contract documents, or from subsequent legislation, provided that any extra provisions or variations which, together with previously approved extra provisions or variations, will cause the contract sum to be exceeded by 10%, or £50,000, whichever is the lower, shall be reported to the appropriate Executive Member, as soon as is practicable. The report shall also show the cumulative effect of approved extra provisions and variations on the original tender figure;
- 9.7 Variations not covered by paragraph 9.6 above, for example, improved finishes, specifications, services, or extra accommodation, and so on, may be issued by the relevant Senior Manager in respect of any variation which involves additional expenditure and the estimated cost of which exceeds 5% of the contract sum, or £5,000, whichever is the higher, provided that such variation shall be reported to the appropriate Executive Member as soon as practicable.
- 9.8 In any contract where price fluctuations are a contractual commitment, the following shall apply:
- a) when tenders are reported, an estimate of total price fluctuations shall be included in the report so that the Executive Member may have a realistic assessment of the final cost; and
  - b) during the contract, actual and estimated price fluctuations shall be monitored regularly.
- 9.9 Senior Managers responsible for contracts must ensure that suitable procedures are followed for the effective cost control of all contracts. A cost statement shall be prepared quarterly for each contract exceeding £50,000 in value, taking into account all known factors, for example, variations, adjustment of prime cost sums, provisional sums and other items.
- 9.10 The ~~Director of Finance~~ Assistant Director Finance shall have the opportunity to examine the final measurement and valuation of all relevant documents prior to issue of the final certificate by the Council. The relevant Senior Manager in charge of the contract shall ensure that adequate site records relating to items, such as day works and instructions to the contractor, are maintained.

- 9.11 The ~~Director of Finance~~Assistant Director Finance shall, to the extent he / she considers necessary, examine final accounts for contracts and he / she shall be entitled to make all such enquiries and receive such information and explanations as he / she may require in order to satisfy himself as to the accuracy of the accounts.
- 9.12 Where the completion of the contract is likely to be delayed, it shall be the duty of the relevant Senior Manager to take any necessary action and to report to the Executive Member concerned.
- 9.13 Disputed or contentious claims not clearly within the terms of the contract shall be referred to the ~~Deputy Chief Executive~~Assistant Director Governance for consideration of the Council's legal liability, and to the ~~Director of Finance~~Assistant Director Finance for financial consideration, before a settlement is reached. Any such settlement shall be reported to the appropriate Executive Member.
- 9.14 Every three months the Executive Member will receive a 'contracts' report. This will detail progress, including financial, on each contract within his/her portfolio.

## **10. Land and Property**

- 10.1 The ~~Deputy Chief Executive~~Assistant Director Governance shall maintain a terrier of all land and property owned or controlled by the Council, recording the holding portfolio, purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.
- 10.2 The ~~Deputy Chief Executive~~Assistant Director Governance shall notify Management Team of details of rights and liabilities in respect of properties coming into the ownership or control of the Council. The ~~Deputy Chief Executive~~Assistant Director Governance shall also notify Management Team of the disposal of properties.
- 10.3 The ~~Deputy Chief Executive~~Assistant Director Governance shall keep all title deeds securely.
- 10.4 The ~~Director of Finance~~Assistant Director Finance shall maintain a register of all of the Council's assets, in compliance with the requirements of CIPFA. This is to include any plant and machinery of a value of £10,000 or more.

## **11. Income**

- 11.1 The collection of all money due to the Council shall be under arrangements approved by the ~~Director of Finance~~Assistant Director Finance.
- 11.2 ~~Each Senior Manager shall furnish the Director of Finance with details of work done, goods supplied, or services rendered, to enable him / her to record correctly all sums due to the Council and to ensure that invoices are sent out~~

~~expeditiously.~~ Each Senior Manager shall arrange for the input of details to the financial management system (or spreadsheet where agreed with the Assistant Director Finance) for work done, goods supplied, or services rendered, to enable the correct recording of all sums due to the Council and to ensure that invoices are sent out expeditiously.

- 11.3 Except where the ~~Director of Finance~~Assistant Director Finance has otherwise agreed, all receipt forms, books, tickets and other similar items (including electronic formats) shall be ordered and supplied to departments by the ~~Director of Finance~~Assistant Director Finance, who shall satisfy himself / herself as to the arrangements for their control.
- 11.4 All monies received by an officer on behalf of the Council shall be paid promptly to the ~~Director of Finance~~Assistant Director Finance, or to the Council's bank account. No deduction may be made from such money, save to the extent that the ~~Director of Finance~~Assistant Director Finance may specifically authorise.
- 11.5 Personal cheques shall not be cashed out of the money held on behalf of the Council.
- 11.6 Every transfer of Imprest, petty cash, and so on, from one member of staff to another, shall be evidenced in the records of the departments concerned, by the signature of the receiving officer.
- 11.7 The ~~Director of Finance~~Assistant Director Finance shall, in conjunction with the Senior Manager concerned, submit to the relevant Executive Member, as part of the annual budget cycle, a report on fees and charges for the forthcoming year, except where setting charges has been delegated to him. Non-delegated fees and charges are:

Communities Portfolio Holder - Leisure Charges

Services Portfolio Holder - Cemetery Charges

Services Portfolio Holder - Car Parking Charges

## **12. Insurances**

- 12.1 The ~~Director of Finance~~Assistant Director Finance shall arrange all insurance cover and negotiate all claims in consultation with other officers where necessary.
- 12.2 Senior Managers shall give prompt notification to the ~~Director of Finance~~Assistant Director Finance of all new risks and the acquisition of properties, vehicles, plant and equipment which require to be insured and of any alterations affecting existing insurances.



- 12.3 Senior Managers shall immediately notify the ~~Director of Finance~~Assistant Director Finance and then confirm in writing any loss, liability, or damage, or any event likely to lead to a claim, and inform the Police where necessary.
- 12.4 The ~~Director of Finance~~Assistant Director Finance shall, annually, or at such other shorter period as he may consider necessary, review all insurances in consultation with other Senior Managers as appropriate.
- 12.5 Senior Managers shall consult the ~~Director of Finance~~Assistant Director Finance and the ~~Deputy Chief Executive~~Assistant Director Governance in respect of the terms of any financial indemnity which the Council is requested to give.

### **13. Inventories**

- 13.1 Inventories shall be maintained by all departments of all items of office furniture, fittings and equipment with a purchase value of £250 or over. The form in which the inventories shall be kept shall be determined by the ~~Director of Finance~~Assistant Director Finance.
- 13.2 A register of IT equipment, including personal computers, will be maintained by the shared IT Services Manager.
- 13.3 Each Senior Manager shall carry out an annual check of all items on the inventory, for taking action in relation to disposals, or obsolete equipment and amending the inventory accordingly. Any disposals must be in accordance with the guidelines published on SharePoint.
- 13.4 The Council's Insurance Officer will annually ask departments for an updated copy of the inventory lists.
- 13.5 The Council's property shall not be removed, otherwise than in accordance with the ordinary course of the Council's business, or used otherwise than for the Council's purposes.

### **14. Write-Offs and Losses**

- 14.1 Each Senior Manager shall inform the ~~Director of Finance~~Assistant Director Finance, in writing, of proposed write-offs and losses of any assets (stock, equipment, and so on).

### **15. Investments, Borrowings and Trust Funds**

- 15.1 All investments and borrowing must be in compliance with the Council's Treasury Management Strategy (see also section 23).
- 15.2 All investments of the Council's money shall be made in the name of the Council by the ~~Director of Finance~~Assistant Director Finance.

- 15.3 All negotiable instruments, bonds and securities in the name of the Council, or its nominees, shall be held in custody of the ~~Director of Finance~~Assistant Director Finance.
- 15.4 All borrowings shall be effected in the name of the Council, by the ~~Director of Finance~~Assistant Director Finance, in accordance with the statutory requirements in force at the time of the borrowing.
- 15.5 The ~~Director of Finance~~Assistant Director Finance shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowing of money by the Council.
- 15.6 All trust funds shall, wherever possible, be in the name of the Council.

## **16. Payment of Accounts**

- 16.1 The ~~Director of Finance~~Assistant Director Finance shall be responsible for making all payments of monies due from the Council, with the exception of payments from approved petty cash or advance accounts, or approved corporate credit/procurement cards. This requirement relates to supplier invoices, Housing Benefit, Council Tax and National Non-Domestic Rates refunds.
- 16.2 The Senior Manager issuing the order shall be responsible for examining, verifying and certifying the related invoice(s). A list of officers authorised by each Senior Manager to raise orders and authorise invoices, claim forms and other vouchers on his behalf, shall be agreed by Management Team on an annual basis.
- 16.3 Before authorising an invoice, the authorising officer shall have satisfied himself that:
- a) the work, goods or services to which the account relates have been received, carried out, examined and approved;
  - b) the prices, calculations, discounts, other allowances, credits and tax are correct;
  - c) the relevant expenditure has been properly incurred, is within the relevant estimate provision and is correctly coded;
  - d) appropriate entries have been made in inventories, stores, records or stock books as required; and
  - e) the account has not been previously passed for payment and is a proper liability of the Council.
- 16.4 Accounts shall be authorised on the electronic creditors' system, without delay. The certification details shall be fully completed in line with the electronic creditors' system. The 'description of work' field shall include a



readily understood description. This is part of the information required by the Code of Data Transparency and is published on the Internet.

- 16.5 Any amendment to an account shall be made through the electronic creditors' system, stating briefly the reasons where they are not self-evident. VAT tax invoices may not be amended. Adjustments to any invoice must be made by the issue of a credit note or supplementary invoice and must be agreed with the supplier.
- 16.6 Each Senior Manager shall, on request, notify the ~~Director of Finance~~Assistant Director Finance of all outstanding expenditure relating to the previous financial year.

## **17. Lost Property**

- 17.1 The ~~Director of Finance~~Assistant Director Finance shall determine how lost property is dealt with. Detailed guidance is available on the Corporate Section of SharePoint.
- 17.2 Private property is not covered by the Council's insurance.

## **18. Salaries**

- 18.1 The payment of all salaries, compensation and other emoluments to all employees, or former employees of the Council, shall be made by the ~~Director of Finance~~Assistant Director Finance, or under arrangements approved and controlled by him / her.
- 18.2 Each Senior Manager shall inform the Human Resources Section, in the prescribed form, of all matters affecting the payment of such emoluments and in particular:
- a) appointments, resignations, dismissals, redundancies, retirements, deaths, suspensions, secondments and transfers;
  - b) absences from duty for sickness, or other reason, apart from approved leave;
  - c) changes in remuneration, other than normal increments and pay awards and agreements of general application; and
  - d) information necessary to maintain records of service for superannuation, income tax, national insurance, statutory sick pay, and so on; and
  - e) engagement of any temporary staff.
- 18.3 The Human Resources Section will pass the information referred to in 18.2 to the Financial Services Section. If this is received by the seventh day of the month, it will be paid in that month.

- 18.4 Appointments of all employees shall be made in accordance with the Council's approved establishment and its Pay Policy.
- 18.5 All time records or other pay documents shall be in a form prescribed or approved by the ~~Director of Finance~~Assistant Director Finance, authorised by the Senior Manager of the department concerned. The names of officers authorised to sign such records shall be sent to the Financial Services Section by each Senior Manager.
- 18.6 When temporary staff are engaged, prior to any payment being made, a completed IR35 assessment will be forwarded to finance confirming whether the engagement will be on or off payroll. This applies equally to engagement of non-temporary staff through third party companies.

## **19. Security**

- 19.1 Each Senior Manager is responsible for maintaining proper security, at all times, for all buildings, stocks, stores, furniture, equipment, cash and all things under his or her control. The ~~Director of Finance~~Assistant Director Finance shall be consulted in any case where security in regard to cash or financial arrangements is thought to be defective, or needing special security arrangements. Relevant Senior Managers shall also inform the Chief Executive of the existence of any special security risks, or the need for improvement in security arrangements.
- 19.2 Keys to safes and similar receptacles are to be either carried on the person of those responsible, or secured in a locked key cupboard. The loss of any such keys shall be reported to the relevant Senior Manager forthwith.
- 19.3 Each Senior Manager shall be responsible for maintaining proper security and privacy of all personal information held within his or her department.

## **20. Stocks and Stores**

- 20.1 Each Senior Manager is responsible for the care and custody of the stocks and stores in his or her department.
- 20.2 Stocks shall not be in excess of normal requirements.
- 20.3 Senior Managers shall arrange for periodic examinations of stocks and shall ensure that all stocks are checked at least once in every year.
- 20.4 The ~~Director of Finance~~Assistant Director Finance shall be entitled to receive from each Senior Manager such information as he / she requires in relation to stores for the accounting, costing and financial records, including a certificate signed by a Senior Manager as to the level of stocks and stores under his or her control. Any surplus requirements shall be disposed of.

## **21. Travelling and Subsistence Allowances**

- 21.1 As far as possible, all claims for payment of car allowances, travelling, subsistence and incidental expenses, shall be submitted electronically via the Transfare system by the deadline date which is posted on the Transfare system each month. Any claims submitted on paper claims to be submitted by the seventh of the month for payment in that particular month. All claims, either electronic or manual, shall be authorised by an authorised officer.
- 21.2 The certification by, or on behalf of the relevant Senior Manager, shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
- 21.3 Subject to 21.4 claims by Senior Managers (other than the Chief Executive) shall be authorised by another Senior Manager with more seniority.
- 21.4 Claims by the Chief Executive shall be certified by the ~~Deputy Chief Executive~~Director of Corporate Services. Claims by the ~~Director of Finance~~Assistant Director Finance shall be certified by the Chief Executive or ~~Deputy Chief Executive~~Director of Corporate Services. Claims by the ~~Deputy Chief Executive~~Director of Corporate Services or Director of People and Place shall be certified by the Chief Executive or ~~Director of Finance~~Assistant Director Finance.
- 21.5 Officers' claims submitted more than three months after the expenses were incurred will be paid only with the express approval of the ~~Director of Finance~~Assistant Director Finance.

## **22. Agency Services**

- 22.1 These Rules shall apply to services carried out by the Council on behalf of another public body, except where the body concerned has financial regulations in force which apply to the works or services carried out on its behalf.

## **23. Code for Treasury Management**

- 23.1 This Council has adopted the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code), as described in Section 5 of the Code:
- 23.2 This Council will create and maintain as the cornerstones for effective treasury management:
- a) a Treasury Management Policy Statement, stating the policies, objectives and approaches to risk management of its treasury management activities; and
  - b) suitable Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and

objectives and prescribing how it will manage and control those activities.

- 23.3 The content of the Treasury Management Policy Statement and TMPs will follow the recommendations contained in ~~Sections 6 and 7 of~~ the Code, subject only to amendment, where necessary, to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles;
- 23.4 The Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual Strategy and Plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs;
- 23.5 The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Scrutiny Co-ordinating Board. The Council delegates responsibility for the execution and administration of treasury management decisions to the ~~Director of Finance~~Assistant Director Finance, who will act in accordance with the Council's Treasury Management Policy Statement and TMPs ~~and CIPFA's Standard of Professional Practice on Treasury Management~~.
- 23.6 The Council nominates the Scrutiny Co-ordinating Board to be responsible for ensuring effective scrutiny of the Treasury Management Strategy and policies.
- 23.7 The Treasury Management Policy Statement will set out how the Council guards against Money Laundering.
- 23.8 Full Council will review its treasury management policies twice a year.
- 23.9 The Council will consider an annual Strategy and Plan in advance of the year, reviewed after six months and an annual report after its close in the form prescribed in its TMPs. The Scrutiny Co-ordinating Board will review the Council's treasury investments at each of its scheduled meetings.

## **24. Determination of Borrowing Requirement**

- 24.1 Under the CIPFA Prudential Code for Capital Accounting (which is an approved practice under the Local Government Act, 2003), the Council is required to determine its borrowing limits each year. The ~~Director of Finance~~Assistant Director Finance will include this as part of the annual update of the Treasury Management Strategy. This shall be taken to Council annually.

## **25. Reporting of Fraud, Theft and Corruption**

- 25.1 Whenever any matter arises which involves, or is thought to involve, fraud, theft or corruption, the matter shall be reported immediately (via the relevant Senior Manager if preferred) to the ~~Director of Finance~~Assistant Director Finance or, in his / her absence, the Senior Auditor, who shall take such steps

as he / she considers necessary by way of investigation and report, as detailed, in the Anti-Fraud, Theft, Bribery and Corruption Strategy (this is available on Corporate Centre page of SharePoint).

Senior Managers shall, meanwhile, take any appropriate action to prevent further loss and secure records and documentation against removal or alteration. Definitions are given below as a guide:

Theft	Dishonestly appropriating property belonging to another, with the intention of permanently depriving them
Fraud	The intentional distortion of financial statements, or other records, by persons, internal or external to the organisation, carried out to conceal the misappropriation of assets, or otherwise, for gain
Corruption	The offering, giving, soliciting, or acceptance of an inducement, favour or reward, which may influence the actions taken by the Council, its Members, or officers. It also includes using personal relationships to influence actions
Bribery	The offering, promising, or giving of a financial or other advantage, to a person with the intention of bringing about another's improper performance of an activity, or rewarding such improper performance. Bribery can arise where the acceptance of an advantage, in the knowledge that it is offered, promised, or given, constitutes an improper performance of an activity.

## 26. Management of Partnerships

- 26.1 The Council has a Protocol for Partnership Arrangements. This can be found on the Corporate Centre page of SharePoint. Any officer considering entering into any partnership shall comply with the Protocol.
- 26.2 Prior to entering into any formal partnership arrangements, the ~~Director of Finance~~ Assistant Director Finance and the ~~Deputy Chief Executive~~ Assistant Director Governance shall be consulted.
- 26.3 The ~~Director of Finance~~ Assistant Director Finance will maintain a database of all partnerships that have either a significant legal or financial commitment. This will be updated on an annual basis.

## 27. Emergency Events

- 27.1 In an emergency, it is important to balance the need to respond promptly and the need to retain accountability. Part of properly dealing with financial matters is to ensure that the appropriate organisation pays for goods and

services in the first instance and that records are such as to enable the billing of third parties and the claiming of Government emergency funds.

- 27.2 In the initial stages of an emergency there may be a need to commit expenditure very rapidly. The ~~Director of Finance~~Assistant Director Finance, or if he/she is unavailable, any other Senior Manager, or the ~~Assistant Director Financial Services~~Assistant Director Finance's appointed Deputy, can authorise any reasonable expenditure.

As soon as possible, the ~~Director of Finance~~Assistant Director Finance, or the ~~Assistant Director Financial Services~~, will liaise with the Chief Executive or the ~~Deputy Chief Executive~~Director of Corporate Services (or, if unavailable, any other member of Management Team) and the Leader (or, if unavailable, the Deputy Leader or any other Executive Member) to agree:

- a) an initial emergency budget; and
  - b) an emergency scheme of budget delegation: the normal delegated levels may not give the required level of flexibility in responding to any emergency. Any such emergency delegation scheme should be for a limited life. The Eden Emergency Response Plan sets out a pro-forma delegation which should be followed.
- 27.3 Unless anticipated gross expenditure is in excess of £500,000, the budgets and expenditure against them will be reported to the next normal meeting of the Executive, or Council, whichever comes first.
- 27.4 If the anticipated gross expenditure is in excess of £500,000, a special Council will be convened, as soon as practicable, to agree the budgets set up and the financial implications of the emergency.
- 27.5 The detailed codes set up by the Financial Services Section should be used for all expenditure and income associated with the emergency.
- 27.6 If the Financial Management System is available, orders should be placed using the system. However, if speed is of the essence, orders may be placed by telephone, with the Financial Management System being used as a confirmation; and
- 27.7 If the Financial Management System is not available, telephone orders can be made, with an appropriate note being sent through to the Financial Services Section.

## **28. Annual Revision**

- 28.1 These Accounting and Audit Rules shall be reviewed annually by the ~~Deputy Chief Executive and the Director of Finance~~Assistant Director Finance as part of the annual review of the Constitution.

## **29. Effective Date**

29.1 This revision is effective from ~~20 April 2018~~ 12 April 2019.

H. Procurement Rules

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## H Procurement Rules 2018

### 1. General

- 1.1 The Rules, in conjunction with the Accounting and Audit Rules, comply with the requirements for Standing Orders under S135 of the Local Government Act 1972.
- 1.2 Procurement is the process by which the Council manages the acquisition of all its goods, services and works: land acquisition and disposal are excluded.
- 1.3 These Procurement Rules provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that:
- all procurement activity is conducted with openness, probity and accountability and compliance with Public Procurement Legislation; and the Council obtains value for money and the required level of quality and performance in all its procurement.
- 1.4 In these Rules the following definitions apply:

Authorised Officer	Any officer who, by the nature of his or her job, or as directed by a manager, is authorised to undertake procurement activity
Chief Officer	One of the following: Chief Executive, <del>Deputy Chief Executive, Director of Finance</del> <u>Director of Corporate Services, Director of People and Place</u>
Contract	Any form of contract, agreement, or other arrangement, for the supply of goods, services, or works
<del>Director of Finance</del> <u>Assistant Director Finance</u>	Includes the <u>Assistant</u> Director's <u>appointed</u> deputy, <del>the Assistant Director Financial Services</del>
Executive Member	A Member of the Council's Executive
Goods	All supplies and materials that the Council purchases, or obtains
Guidance	<del>The Council's Procurement Guidance for Officers</del> <u>The Council's Procurement Procedures</u>
Leader	The Leader of the Council, as appointed by full Council
Management Team	<del>The Chief Executive, Deputy Chief Executive, Director of Finance, Deputy Directors Technical and Environmental Services and Assistant Director</del>

	<del>Commercial Services and Assistant Director Organisational Development</del> <u>The senior leadership team comprising the Chief Executive, Director of Corporate Services and Director of People and Place.</u>
Senior Manager	<del>Any officer who is part of Management Team and the Assistant Director Legal Services, Assistant Director Financial Services, Assistant Director Revenues and Benefits and the Assistant Director Customer Services and Transformation</del> <u>A Chief Officer, Assistant Directors and Heads of Service.</u>
Senior Auditor	The Council's in-house Internal Auditor
Services	Includes all services which the Council purchases, or obtains, including advice, specialist consultancy work, agency staff, and so on
Works	Covers all construction and property-related procurement

1.5 All values referred to in the Rules are exclusive of VAT.

1.6 Throughout these Rules the ~~Director of Finance~~Assistant Director Finance shall deputise for the Senior Auditor in his absence, and vice versa.

1.7 Every procurement made by, or on behalf of the Council, shall comply with these Rules and no exception from any of the provisions is allowed, except by agreement of:

- a) procurement exercises less than £60,000 - the relevant ~~Deputy Director~~(Assistant) or Assistant Director ~~and the Director of Finance~~;
- b) procurement exercises of £60,000 or more, but less than £100,000 - the Executive; and
- c) procurement exercises of £100,000 or more - Council.

1.8 The specified limits apply to contracts with a fixed or known value.

## 2. Orders for all Work, Goods and Services

2.1 Official orders shall be in the manner approved by the ~~Director of Finance~~Assistant Director Finance and shall be issued only by authorised officers. A list of authorised officers shall be submitted by each Senior Manager to the ~~Director of Finance~~Assistant Director Finance on an annual basis.

- 2.2 Official orders shall be issued for all work, goods, or services to be supplied to the Council, except for supplies of public utility services, periodical payments, such as rents or rates, petty cash purposes, or where a formal contract is entered into, or such other exceptions as the ~~Director of Finance~~ Assistant Director Finance may approve.
- 2.3 No order shall be issued for work, goods, or services, unless the cost is covered by an approved budget, or by special financial provision. Under no circumstances shall personal goods/requirements be ordered via an official Council order.

### 3. Procurement Exercises Under £60,000

- 3.1 The following apply where any individual purchase or contract is less than £60,000 in total. Artificial breaking down of any procurement exercise so that individual elements are less than this limit is not permitted.
- 3.2 Purchases of less than £5,000 do not require competitive quotes. However, officers are encouraged to obtain comparisons and should be satisfied that the purchase gains value for money for the Council. This can be done by contacting suppliers directly and using catalogues, or various internet sites. Other relevant sources are trade magazines and recommendations from other staff/councils. It is suggested that, where the value of the procurement exercise is greater than £500, a record is made of why the supplier was chosen.
- 3.3 ~~Chief Officers~~ A Senior Manager shall obtain at least two competitive quotations where the estimated cost of the goods or services exceeds £5,000, but is less than £10,000.
- 3.4 For procurement exercises of a value from £10,000 or more but less than ~~£2560,000~~, a minimum of three quotations should preferably be sought and for £25,000 to £60,000 a minimum of four written quotations should be sought. Where the opportunity is advertised it shall be published on ~~both The Chest and the Council's website~~. Less than three quotations may be sought in special circumstances where it is not practicable to do otherwise. In such cases, the relevant Senior Manager shall keep a written record detailing the reasons for waiving the rules. For quotes of ~~£25,000 or more~~ but below the EU threshold the, use of The Chest is considered best practice (see 4.6.1.2 below).
- 3.5 An exception to the above is where use is made of a framework arrangement or Cumbria County Council's Corporate Procurement and Contract Management Team (the County Council's purchasing organisation). In such cases, while no further quotes are required, the Authorised Officer should be satisfied and able to demonstrate that they are achieving value for money. The use of frameworks is another means of securing procurement. Where suppliers are part of a framework, then only these suppliers need be contacted.

3.6 In general, where it is a price only tender, the lowest price should be accepted. It is assumed that the quotation process will have been clear on setting out the required specification. However, each Senior Manager can approve a written request from an Authorised Officer, with stated reason, to accept a quotation other than the lowest, where there is good reason to do so. Such approved requests shall be recorded and all relevant documents and correspondence retained by the relevant Senior Manager.

3.7 Procurement (corporate credit) cards can be used for purchases. All procurement cards must be specific to individual officers, with an individual total credit limit, as authorised by the ~~Director of Finance~~ Assistant Director Finance. ~~Advice on the use of procurement cards is set out in the Procurement Guidance for Officers.~~

3.8 Any purchase of goods, works, or services which requires the Council to enter into a formal written agreement with the supplier, shall not take place until the terms of that agreement have been referred to the ~~Deputy Chief Executive~~ Assistant Director Governance and approved by him/her.

#### 4. Procurement Exercises of £60,000 or more

4.1 When the estimated value of the goods, works, or services to be procured is £60,000 or more, the relevant Senior Manager shall invite competitive tenders on the following basis:

##### Numbers of Tenders to be Sought

The following should normally be the minimum number of tenders sought:

Tender Value £	Number of Tenders To Be Sought
	Minimum
More than £60,000 but less than <del>EU Procurement threshold</del> <u>£100,000</u>	<del>43</del>
<del>£100,000 or more</del> <u>Procurements above the EU procurement threshold must be tendered in line with the Public contracts Regulations 2015.</u>	4

The relevant Senior Manager shall have authority to accept a tender and direct that a contract be entered into on the basis set out in paragraphs 4.10 and 4.11 below.

4.2 The relevant Senior Manager shall determine which one of the following tender procedures is adopted:

a) Open Tendering

At least ~~fourteen~~ thirty days' notice is to be given on the ~~Council's website and~~ The Chest stating the nature, purpose and extent of the proposed contracts, inviting tenders and stating the date by which tenders must be received. ~~Information published on the Council's website shall direct external parties to The Chest. If considered appropriate, the relevant Senior Manager may consider giving similar notice in appropriate publications.~~

b) Special List

In ~~special~~ appropriate circumstances and subject to compliance with the Public Contracts Regulations if applicable, the relevant Senior Manager may compile a Special List of tenderers for the procurement of works, goods or services, provided that:

- i. the estimated value of the works, or the supply of goods or services, does not exceed £100,000;
- ii. the tenderers shall be persons who, in the professional judgement of the relevant Senior Manager, have the skills and capacity to efficiently complete the work, the goods, or services; and
- iii. prior to the invitation to tender, the relevant Senior Manager shall have recorded the list of tenderers, together with his/her reasons for using a Special List and inclusion of specific tenderers thereon and shall have such action approved by the Assistant Director Finance ~~Director of Finance~~.

When a Senior Manager considers that a Special List would be appropriate for the carrying out of works, goods, or services, but the estimated value is £100,000 or more, such a Special List ~~can~~ must be approved by Council, or the Executive ~~(if less than £500,000).~~

All procurement activity valued above the relevant EU threshold must be conducted in line with the Public Contracts Regulations 2015, having regard to how they apply the and any particular circumstance.

#### 4.3 Sub-Contracts and Nominated Suppliers

The relevant Senior Manager shall have authority to include sub-contractors and/or nominated suppliers within a larger overall contract,

providing that the selection, tender and subsequent award have been in accordance with these Rules.

#### **4.4 Work, Goods, or Services Undertaken by Consultants**

Any architect, engineer, surveyor, or other consultant (not being an officer of the Council), who is appointed by the Council for the purchase or carrying out any work, or the provision of goods, or services, shall ensure throughout the appointment that he / she shall:

- a) comply with these Rules;
- b) at any time during the carrying out of the contract, produce to the relevant Senior Manager, or his/her representative, on request, all the records maintained by him in relation to the contract; and
- c) on completion of a contract, transmit all such records, as requested, to the relevant Senior Manager.

#### **4.5 Exceptional Cases**

4.5.1 The Executive may decide that only one tender shall be sought where the goods, works, or services to be executed:

- a) constitute an extension of the existing contract, provided that the relevant Senior Manager may authorise an extension to a cost up to 10% above the approved allocation, or £100,000, whichever is the lesser; or
- b) constitute the continuation of a programme of works commenced by a contractor and the relevant Senior Manager certifies that there are exceptional circumstances why he/she should seek, or negotiate, a tender from that contractor only.

4.5.2 More than one tender need not be sought where:

- a) the goods to be supplied are proprietary articles, or are sold only at a fixed price and no satisfactory alternative is available; or
- b) the relevant Senior Manager certifies that the works to be executed, or the goods to be supplied, are required so urgently as not to permit the invitation of more than one tender; or
- c) the works to be executed, or the goods to be supplied, consist of repairs to, or the supply of parts of, existing proprietary machinery or plant.

4.5.3 Procurement can be made using a framework agreement, or Cumbria County Council's Corporate Procurement and Contract Management Team (the County Council's purchasing organisation).

## **4.6 Forms of Tendering**

### **4.6.1 Electronic Tendering**

4.6.1.1 All procurement processes must be conducted electronically, either via e-mail or through the Council's electronic tender system is the North West e-Tendering portal, 'The Chest'. Detailed guidance is available in the [Procurement Guidance for Officers](#) [Procurement Procedures](#).

4.6.1.2 Any invitation to quote or tender should include a Specification detailing the Council's requirements to be published on the system.

4.6.1.3 Use of The Chest prevents tenders being opened until after the expiry of the published closing date. When a procurement exercise is being carried out via The Chest, tenders submitted by any other means and opened prior to the return deadline will be excluded from the process.

### **4.6.2 Opening of Tenders**

4.6.2.1 Electronic tenders shall be released by the appointed verifier. Appointed verifiers are allocated the responsibility by the system.

## **4.7 Tenders**

4.7.1 ~~Where the tenders are received electronically via The Chest, all relevant detail will be recorded on the portal using the system's comprehensive audit trail. A record of tenders received should be made as soon as they have been opened. This record should be in a form agreed by the Director of Finance (see Guidance), signed by those present and filed in the Tendering Opening File which is kept in the safe and a copy retained by the relevant Senior Manager.~~

It is a requirement for records of procurement activity, including all quotations and tenders received to be stored securely in electronic format. Tender submissions, quotations received, evaluation documents and any final reports detailing the selection outcome should be stored centrally within the procurement section of SharePoint.

A record of all Tenders received should be made as soon as they are opened and the record kept by the Procurement Officer.

A record of all documentation to be kept electronically is listed in the Procurement Procedures.

## **4.8 Late Tenders**

4.8.1 Any tender submitted in competition received after the specified time may be viewed to ascertain the name of the tenderer, but no details of the

tender shall be disclosed. The tenderer shall be notified that the Council will be unable to accept the late submission.

4.8.2 Notwithstanding these provisions, the Senior Auditor and the relevant Senior Manager shall have discretion to determine that any such tender can be considered if:

- a) there is evidence of submitting in time for delivery by the due date in the normal course of delivery; or
- b) in special circumstances, the reason presented is viewed as legitimate by the Senior Auditor and relevant Senior Manager; and
- c) that, in their opinion, the late tender has not prejudiced the tendering process.

providing always that the other tenders have not then been opened and the circumstances justifying any such acceptance reported by them to the next available Member meeting.

#### 4.9 **Errors**

4.9.1 Where examination of tenders reveals errors or discrepancies which would affect the tender evaluation in an otherwise successful tender, the tenderers shall be given the details of such errors and discrepancies and afforded an opportunity of confirming or withdrawing the offer. If the tenderer withdraws, the next tender in competitive order shall be examined and dealt with in the same way. Any exception to this procedure may be authorised only by, or on behalf of the Executive or Council, after consideration of a report by the relevant Senior Manager.

#### 4.10 **Basis of Acceptance**

4.10.1 Tenders should be sought on one of two bases:

- a) Most Economically Advantageous Tender (MEAT); or
- b) the lowest price.

The basis of any criteria for acceptance must be made clear in the tender documentation.

4.10.2 In general, MEAT is likely to be the more appropriate basis. An award on the basis of lowest price should be reserved for commodities such as gas, paper, where it is possible to precisely specify the good, or supply, to be procured.

4.10.3 If the basis is MEAT, the assessment of how this will be done should be set out in the tender documents. This should state:



- a) the categories of assessment;
- b) any weighting for each category; and
- c) how the assessment is to be carried out.

4.10.4 Further detail ~~on this~~ on the methods of assessment ~~is~~ are set out in the Procurement Procedures and standard Instructions for Tenderers. ~~Guidance for Officers~~.

4.10.5 Unless there are ~~exceptional~~ specific reasons to provide otherwise, the weighting given to price should be between 60% and 100%. A figure lower than 60% will require the approval of the appropriate Executive Member.

#### 4.11 **Acceptance**

4.11.1 Tenders sought in accordance with these Rules may be accepted by the relevant Senior Manager, subject to:

- a) the works or goods being included in an approved revenue or capital programme;
- b) the tender to be accepted not exceeding (as opened) by more than 10%, the cost figure approved by the appropriate Member for the works, goods, or services;
- c) if the budget is exceeded, the excess can be met by virement through the procedures laid down by the Accounting and Audit Rules: the relevant Senior Manager shall formally record the virement by filling in a virement request form; and
- d) where the accepted sum is £100,000 or more, the acceptance shall be reported to the appropriate Executive Member.

4.11.2 The proposed acceptance of any tender not in accordance with this section shall be referred for consideration by the Executive (if less than £500,000), or Council. The provisions above also apply where goods, or the rights to operate income-generating services, are being sold.

#### 4.12 **Form of Contract**

4.12.1 A contract shall be drawn up in writing in a form approved by the ~~Deputy Chief Executive~~ Assistant Director Governance and shall specify:

- a) the goods or services to be procured (including any appropriate technical specification(s));
- b) the price to be paid, with a statement of discounts, or other deductions;

- c) the times, or times at, or by which, the contract is to be performed;  
and
- d) all other material items.

#### **4.13 Assignment**

- 4.13.1 In every written contract for the execution of the work, or the supply of goods or materials, the following clause shall be inserted:

'The contractor shall not transfer or assign, directly or indirectly, to any other person, any part of this contract without the express written permission of the Council. A sub-letting of any part(s) of the contract, except to the extent permitted in writing by the Council officer concerned, is prohibited'.

#### **4.14 Liquidated Damages**

- 4.14.1 Liquidated damages are a pre-estimate of the loss that may arise if the contractual provisions of a contract are not met. It may be appropriate to include liquidated damages in some contracts. The amount to be specified in each such contract shall be determined by the relevant Senior Manager.

#### **4.15 Performance Bonds**

- 4.15.1 Where a contract is for the execution of the works or is estimated to be £100,000 or more in value or amount, the relevant Senior Manager shall consider whether the Council should require security for its due performance and shall either certify that no such security is necessary or, in consultation with the ~~Director of Finance~~ Assistant Director Finance, shall specify in the conditions of tender the nature and amount of the security to be given. In the latter event, the Council shall require and take a bond or other sufficient security for the due performance of the contract.

#### **4.16 Specifications and Standards**

- 4.16.1 All tenders shall include a written specification of the proposed works, goods, or services.
- 4.16.2 Where an appropriate standard, as formulated by a European Standards body and implemented by a British Standard specification, is current, all goods and materials used or supplied and workmanship shall be required to conform with that standard, or other equivalent European Standard, as a minimum requirement.

#### **4.17 Cancellation**

- 4.17.1 In every written contract, a clause shall be inserted to secure that "the Council shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the

contractor shall have offered, or given, or agreed to give to any person, any gift or consideration of any kind, as an inducement or reward for doing, or forbearing to do, or for having done or forborne to do, any act in relation to obtaining, or the execution of the contract, or any other contract with the Council, for the showing or forbearing to show, favour or disfavour to any person in relation to the contract, or any other contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor) or, if in relation to any contract with the Council, the contractor or any person employed by him, or acting on his behalf, shall have committed any act of dishonesty or corruption."

#### **4.18 Health and Safety**

- 4.18.1 All contracts entered into shall comply with the provisions within the Council's General Health and Safety Policy and procedures in relation to contracts and contractors.

#### **4.19 Public Procurement Requirements**

- 4.19.1 On procurement exercises over the European Union financial thresholds, the Public Procurement Regulations may apply and must always be followed. The current thresholds for specified categories of goods and services are set out in the Procurement [Procedures](#) [Guidance for Officers](#).
- 4.19.2 The Public Procurement Regulations shall also be considered and the principles used as guidance for procurement exercises under the European Union financial thresholds.
- 4.19.3 For procurement exercises above European Union financial thresholds, under UK law the opportunity must be advertised on the UK Government Contracts Finder system.

#### **4.20 Project Management Arrangements**

- 4.20.1 All procurement exercises with an expected lifetime cost in excess of £1,000,000, or involving substantial organisational change, must be conducted in accordance with PRINCE II (see Guidance) and both the project mandate and the project brief must be agreed by Management Team.

### **5. Procurement Guidance for Officers**

- 5.1 The detailed implementation of these rules is supported by Guidance which is available in the Procurement section of SharePoint. All officers undertaking procurement exercises should be familiar with the Procurement [Procedures](#) [Guidance for Officers](#).

### **6. Diversity**

6.1 All procurement exercises shall be undertaken in a non-discriminatory way and promote equality of opportunity.

6.2 Supporting detail on achieving diversity is set out in the Procurement ~~Procedures~~ Guidance for Officers.

## **7. Emergency Situations**

7.1 In the acute phase of an emergency, goods and services may be procured on the process that best fits the situation. As far as possible, the approval of the ~~Director of Finance~~ Assistant Director Finance, Chief Executive, ~~Deputy Chief Executive~~ Director of Corporate Services or Emergency Co-ordinator (under the Eden Emergency Response Plan), shall be obtained. A note shall be kept of the procurement basis and sent at a convenient time to Financial Services.

7.2 After the acute phase is over, Procurement Rules should be followed wherever practicable. If this is not considered appropriate in particular instances, dispensation can be obtained from the ~~Director of Finance~~ Assistant Director Finance, or the Chief Executive, or ~~Deputy Chief Executive~~ Director of Corporate Services. They will forward details to Financial Services for record purposes. Dispensations from Procurement Rules will be reported to the next Executive meeting.

## **8. Conflict of Interest**

8.1 If it comes to the knowledge of a Member or an employee of the Council that a contract in which he or she has a disclosable pecuniary interest has been, or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Council's ~~Deputy~~ Chief Executive. The ~~Deputy~~ Chief Executive shall report any such declarations to the Executive and Accounts and Governance Committee.

## **9. Annual Revision**

9.1 These Procurement Rules shall be reviewed annually by the ~~Director of Finance~~ Assistant Director Commissioning and Finance Technical Services ~~and Deputy Chief Executive~~ as part of the annual review of the Constitution.

## **10. Effective Date**

10.1 This revision is effective from ~~20 April 2018~~ 12 April 2019.

### **I Officer Employment Procedure Rules**

#### **1. Recruitment and Appointment**

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

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

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

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

#### **2. Recruitment of Head of Paid Service, Chief Officers, Deputy Directors and Assistant Directors**

- a) Where the Council proposes to appoint a chief officer or a Deputy Director or an Assistant Director including the Head of Paid Service (other than on an acting basis) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
  - i) draw up a statement specifying:
    - (1) the duties of the officer concerned; and
    - (2) any qualifications or qualities to be sought in the person to be appointed;
  - ii) 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
  - iii) make arrangements for a copy of the statement mentioned in paragraph i) above to be sent to any person on request.

### 3. Appointment of Head of Paid Service

- a) ~~The full Council will approve a recommendation to appoint the Head of Paid Service having regard to any recommendation on such an appointment by the Human Resources and Appeals Committee. This recommendation should be made and approved before an offer of appointment is made to that person.~~ The Human Resources and Appeals Committee will consider and make a recommendation to Council on the appointment of a person as the Head of Paid Service to the Council.
- b) When considering the appointment of the Head of Paid Service the Human Resources and Appeals Committee must have in its membership at least one Executive Member.
- c) The Human Resources and Appeals committee shall undertake a recruitment process to determine who should be recommended to be appointed as the Head of Paid Service. At the conclusion of the recruitment process:
  - i) the Human Resources and Appeals Committee must notify the Proper Officer of the name of the person to whom the Committee wishes to recommend to be appointed and of any other particulars which are relevant to the appointment;
  - ii) the Proper Officer must notify every Member of the Executive of the Council of:
    - (1) the name of the person whom the Committee wishes to recommend to be appointed;
    - (2) any other particulars relevant to the appointment which the Committee has notified to the Proper Officer; and
    - (3) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the Proper Officer; and
- d) An offer of an appointment as the Head of Paid Service can only be made following consideration by Council if
  - (1) the Leader has, within the period specified in the notice under sub-paragraph c)(iii) notified the Committee that neither he / she nor any other Member of the Executive has any objection to the making of the offer;
  - (2) the Proper Officer has notified the Committee that no objection was received by him / her within that period from the Leader; or

(3) the Committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

e) Full Council must consider and approve the appointment of a person as the Head of Paid Services before an offer of appointment is made to such a person. The report to Council from the Committee on the appointment of the Head of Paid Service must set out the details of the proposed appointment and the outcome of the consultation with the Leader.

#### 4. **Appointment of Chief Officers and Deputy Chief Officers**

##### a) Chief Officers

The Human Resources and Appeals Committee will appoint any chief officer other than the Head of Paid Service and any deputy chief officer. The current Chief Officers are the Deputy Chief Executive Director of Corporate Services and the Director of Finance Director of People and Place in addition to the Head of Paid Service.

#### 5. b) ~~Appointment of Deputy Directors and~~ Assistant Directors and Heads of Services

The ~~Deputy Directors and~~ Assistant Directors and Heads of Service report to the Chief Officers and act as their deputies. The ~~Deputy Directors and~~ Assistant Directors and Heads of Service will be appointed by the Human Resources and Appeals Committee. ~~The Deputy Directors are those for Environmental Services and Technical Services.~~ The Assistant Directors are those for Commercial Services, Customer Services and Transformation, Human Resources and Organisational Development, Legal Services and Revenues and Benefits. Governance, Finance, Commissioning and Technical Services, Planning and Economic Development and Community Services. The Heads of Service are Revenues and Benefits, Transformation and Customers and Policy and Human Resources. The Assistant Directors and Heads of Service are the Council's Deputy Chief Officers.

##### c) The Appointment Process for Chief Officers and Deputy Chief Officers

The Human Resources and Appeals Committee shall undertake a recruitment process to determine who should be recommended to be appointed as the Chief Officer or Deputy Chief Officer. The Committee or Sub-Committee must have in its membership at least one Executive Member.

d) An offer of appointment as a Chief Officer or Deputy Chief Officer must not be made by the Committee until:

- i) the Committee has notified the Proper Officer of the name of the person to whom the Committee wishes to recommend to be appointed and of any other particulars which are relevant to the appointment;
- ii) the Proper Officer has notified every Member of the Executive of the Council of:
  - (1) the name of the person to whom the Committee wishes to recommend to be appointed;
  - (2) any other particulars relevant to the appointment which the Committee has notified to the Proper Officer; and
  - (3) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the Proper Officer; and
- e) An offer of an appointment as a Chief Officer or a Deputy Chief Officer can only be made following consideration by Council if
  - (1) the Leader has, within the period specified in the notice under sub-paragraph c)(iii) notified the Committee that neither he / she nor any other Member of the Executive has any objection to the making of the offer;
  - (2) the Proper Officer has notified the Committee that no objection was received by him / her within that period from the Leader; or
  - (3) the Committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

**65. Appointment of Officers below Chief Officer, ~~and Deputy Directors and Assistant Directors~~ Chief Officer**

The appointment of any officer below the level of a Chief Officer or Deputy ~~Director or Assistant Director~~ Chief Officer is the responsibility of the Head of Paid Service or an officer nominated by him/her and may not be made by Members.

**76. Disciplinary Action in respect of the Head of Paid Services, Monitoring Officer and Chief Finance Officer**

- a) The Council's Head of Paid Services, Monitoring Officer and Chief Finance Officer (the relevant officers) may not be dismissed other than in accordance with the procedure set out in these rules and Schedule 3 to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.



- b) The Human Resources and Appeals Committee and any Sub-Committee which may be established is appointed to and shall advise the Council on matters relating to any proposal or recommendation to dismiss any of the relevant officers.
- c) The Human Resources and Appeals Committee or any Sub-Committee which may be established shall include at least two independent persons whenever it is considering any matter relating to the proposed or prospective dismissal of any of relevant officers.
- d) The Human Resources and Appeals Committee or any Sub-Committee which may be established may provide advice, views and recommendations to the Council in relation to the proposed or prospective dismissal of any relevant officer.
- e) The Council, in considering whether or not to approve the dismissal of any relevant officer, must consider:
  - i) any advice, views and recommendations of the Human Resources and Appeals Committee on the proposed dismissal;
  - ii) the conclusions of any investigation into the proposed dismissal; and
  - iii) any representations made by the relevant officer.
- f) Any relevant officer may be suspended on full pay for the purpose of investigating alleged misconduct; and such suspension must terminate no later than on the expiry of two months beginning on the day on which the suspension takes effect, unless the Human Resources and Appeals Committee or any Sub-Committee which it may establish directs that it may continue beyond that period. The Council must approve any dismissal of any relevant officer before notice is given to that person of dismissal.
- g) Notice of dismissal may not be given until:
  - i) the Proper Officer has been notified of the name of the person whom it is proposed should be dismissed together with any other relevant particulars;
  - ii) the Proper Officer has notified every Member of the Executive of the name of the person the Council proposes to dismiss and of any other relevant particulars and of the period within which any objection to the dismissal may be made by the Leader; and
  - iii) either
    - (1) the Leader has notified the Proper Officer that neither he nor any other Member of the Executive has any objection to the proposed dismissal; or

- (2) the Proper Officer has notified the Council that no objection was received by him in the relevant period; or
  - (3) the Council is satisfied that any objection received from the Leader is not material or not well founded.
- h) The Proper Officer for these purposes is the Monitoring Officer in relation to a proposal to appoint or dismiss the Head of Paid Service or the Chief Finance Officer and the Head of Paid Service in relation to a proposal to discuss the Monitoring Officer.

## **7. Disciplinary Action and Dismissal in respect of Chief Officers and Deputy Chief Officers**

Notice of the dismissal of a Chief Officer or a Deputy Chief Officer must not be given until:

- a) the person or Committee (dismissor) undertaking the function of disciplinary action has notified the Proper Officer of the name of the person it is proposed should be dismissed and any other particulars which the dismissor considers to be relevant to the dismissal;
- b) the Proper Officer has notified every member of the Executive of
  - i) the name of the person whom the dismissor proposes should be dismissed;
  - ii) any other particulars relevant to the dismissal which have been notified to the Proper Officer by the dismissor; and
  - iii) the period within which any objection to the dismissal is to be made to the Proper Officer by the Executive Leader on behalf of the Council.
- c) either
  - i) the Executive Leader has notified the dismissor, within the period specified, that neither he / she nor any member of the Executive has any objection to the dismissal.
  - ii) the Proper Officer has notified the dismissor that no objection has been received from the Executive Leader within the specified period;
  - iii) the dismissor is satisfied that any objection received from the Executive Leader within the specified period is not material or is not well-founded.

## **8. Dismissal of and Disciplinary Action against other Officers** **Members**

- 8.1 The dismissal of or the taking of disciplinary action against any officer of the Council apart from the Head of Paid Service, a statutory Chief Officer, a non-statutory Chief Officer and a Deputy Chief Officer must

be discharged by the Head of Paid Service or by an officer nominated by him / her.

- 8.2 Members will not be involved in the disciplinary action against any officer except where such involvement is necessary for any investigation or inquiry into the alleged misconduct is specifically provided for under any part of these Officer Employment Procedure Rules or is in accordance with the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of a specified form of disciplinary action.

## Appendix 4

**From:** [Joan Raine](#)  
**To:** [Karen Edmondson](#)  
**Cc:** [Andrew Connell](#); [Karen Greenwood](#); [Valerie Kendall](#); [Douglas Banks](#); [John Owen](#); [Gordon Nicolson](#)  
**Subject:** FW: Newly published decision: Annual Review of Fees and Charges  
**Date:** 11 December 2018 13:41:41

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Hello Karen

In response to the letter sent on Mathews behalf regarding the constitution review, please see my query sent earlier this month.

I'm well aware that the scrutiny system is set up to hold the executive to account, the option of a call in when a decision to put best practise into place as is the case below appears ridiculous to me.

The last call in "which I chaired" appeared to me and other councillors on the scrutiny co bd, to fall into that ridiculous category, but obviously the call in request was validated by Matthew and deemed suitable to be called in.

It would be interesting to know how much officer time was spent on that that call in, luckily the timing of the call in coincided with the planned scrutiny co bd meeting was held prior to the Scrutiny co bd.

Serious consideration must be taken on what can be called in, bearing in mind that a call in will not always coincide with the scrutiny co bd calendar and councillors expenses will be added on if a special meeting takes place.

Although this may fall outside the remit of the Constitution review, it may be the opportunity to draw to your attention, as members of the scrutiny co bd were puzzled as to why the last call in request fit the correct criteria and was validated, a training session for all councillors would be beneficial and clarify the situation.

Kind Regards

Joan Raine

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**From:** Joan Raine

**Sent:** 01 December 2018 16:03

**To:** cttee admin

**Cc:** Douglas Banks; Matthew Neal; Paula Breen

**Subject:** RE: Newly published decision: Annual Review of Fees and Charges

Hi The answer to this question is probably in the constitution, I suppose my curiosity is heightened due to the recent call in!

Why is the decision to review the Annual fees and charges a decision which can be called in? Surely if this was called in it would be a premature decision and a similar situation to the last call in as no real decision has actually been made. A call in after the fees and charges have been reviewed could be expected and much more likely. I expect this decision falling below the category of non- key decision is something which should be looked at in the next constitution review.

Regards

Joan

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## Council Procedure Rules

### 13. Motions on Notice

#### a) Notice

Except for motions which can be moved without notice under Rule 14 below, written notice of every motion, signed by the member giving the notice, must be delivered to the ~~Deputy Chief Executive~~Assistant Director Governance not later than ~~five clear working~~nine clear calendar days (that is not counting the day of the meeting or the day of delivery) before the date of the meeting. These will be entered in a book open to public inspection.

### 26. Public Arrangements - Petitions

- a) This Standing Order shall apply to ordinary meetings of Council, except the Annual Meeting.
- b) A person who lives, works or studies in the Eden District may present a petition about any matter on which the Council has power to act.
- c) Petitions containing 500 signatures or more will be subject to debate by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting.
- d) Details of each petition to be submitted to Council should be delivered to the ~~Deputy Chief Executive~~Chief Executive no later than ~~five working~~nine clear calendar days (that is not counting the day of the meeting or the day of delivery)~~days~~ before the meeting of the Council concerned.
- e) Only the petition organiser may speak and such speech shall not exceed five minutes inclusive of the reading of the substance of the petition. At the conclusion of the speech the petition will be discussed by councillors for a maximum of fifteen minutes.

## Code of Planning Conduct and Practice

### 13. Public Hearings at Planning Committee

(New Paragraph)

..) A person making a representation to the Committee may only speak once subject to paragraphs f and j of this Code.

## Comments from the Head of Revenues and Benefits

### In Accounting and Audit Rules

- 11.2 Each Senior Manager shall furnish the Director of Finance with details of work done, goods supplied, or services rendered, to enable him / her to record correctly all sums due to the Council and to ensure that invoices are sent out expeditiously.

This needs to be updated to reflect revised procedures – something along the lines of:

- 11.2 *Each Senior Manager shall arrange for the input of details to the financial management system (or spreadsheet where agreed with the ~~Director of Finance~~ Assistant Director Finance) for work done, goods supplied, or services rendered, to enable the correct recording of all sums due to the Council and to ensure that invoices are sent out expeditiously.*

### In Schedule 2 - Executive Functions Delegated to Officers

- c) Specific Delegation to the identified Officers

- iii) To the Director of Finance

5. administer the Assisted Car Purchase Scheme of the Council;

This needs to be deleted as this scheme has ceased.

8. write off for accountancy purposes all bad debts not exceeding £5000 provided always that recovery of the debt shall not thereby be prejudiced and to write off any amount as remitted by the Magistrates on committal applications;

Following an audit report the wording needs to be updated to clarify that the £5,000 is per account

19. determine applications for village hall grants, discretionary business rates and relief and discretionary housing payments in accordance with Council policies

**Constitution Working Group**

**15 January 2019**

**Full Council Appointments to the two National Park Authorities**

**Report of the Deputy Chief Executive**

The rules regarding local authority appointments are set out in paragraph 2 of Schedule 7 of the Environment Act 1995. In particular paragraph 2(5) stipulates that if a person is appointed as a local authority member to a National Park:

- “(a) he shall hold office from the time of his appointment until he ceases to be a member of that council; but
- (b) his appointment may, before any such cessation, be terminated for the purposes of, and in accordance with, sections 15 to 17 of the Local Government and Housing Act 1989 (political balance).”

Eden District Council's practice for many years has been to nominate a member every year at the May AGM. That practice was questioned when the Council voted to replace the incumbent Yorkshire Dales National Park Authority (YDNPA) nominee with a different Councillor in May 2018.

Paragraph 2(7) of the Environment Act 1995 provides that “the appointment of any person as a local authority member of a National Park authority may provide that he is not to be treated for the purposes of sub-paragraph (5) above as qualifying for his appointment by virtue of his membership of any council other than that specified in the appointment.”

Eden District Council's interpretation of the above has been that it enables the Council as the appointing authority to limit the term of the appointment of its nominee to an National Park Authority to a lesser term than the remainder of the terms of officer of the Councillor, hence its current practice.

Knowles on Local Authority meetings states at paragraph 4.5.6 that “.. where the local authority ...itself appoints its representative on another local authority or other public body, the local authority can always revoke the appointment and substitute another representative at any time.”

YDNPA's view is that a member should remain on the Authority as the constituent district council's appointee until such time as the next elections unless, of course, in the meantime the councillor resigns from their role on the Authority or ceases to be a member of the constituent council.

YDNPA's concern is that if Eden's practice was adopted amongst all of its 8 constituent councils it would be extremely problematic in terms of decision making and governance. It would mean that each year YDNPA could have up to 15 new

members (out of a total of 25) ie 60 %. All would have to be trained and be brought up to speed with the relevant policies and issues relating to membership of the Authority.

This would also be at odds with the appointment of Secretary of State appointments who are appointed for 4 year terms and parish members who are appointed for the term of their election .

The basis for both national and constituent authority appointments therefore is one of continuity. The Lake District National Park Authority have been consulted and their views align with those of YDNPA.

The Monitoring Officer therefore intends to seek member appointments at Council at its AGM to LDNPA and YDNPA for a term equivalent to such members' term of office. It is intended to bring a report in these terms to the next Accounts and Governance Committee.

M Neal  
Deputy Chief Executive