



**Nottingham  
City Council**

# Part 5

# Financial Regulations and Contract Procedure Rules

## **Financial Regulations and Contract Procedure Rules**

### Contents

1. Financial Regulations
2. Contract Procedure Rules

## **1. Financial Regulations**

### **Contents**

Definitions

- 1 Introduction & Background
- 2 Status of Financial Regulations
- 3 Overall Financial Responsibilities
  - The Full Council
  - Executive Board
  - Committees of the Council
  - Scheme of Delegation
  - The Statutory Officers
  - Head of Paid Service
  - The Monitoring Officer
  - Chief Finance Officer
  - Corporate Directors
  - Personal Responsibilities
  - Dispensations From Financial Regulations

### **Regulations**

- A Financial Planning
  - Introduction
  - Policy Framework
  - Budgeting
    - Budget Format
    - Allocation of Resources
    - The Capital Programme
  - Budget Monitoring and Control
    - Revenue Budget Monitoring
    - Capital Budget Monitoring
  - Maintenance of Reserves
- B Financial Management
  - Introduction
  - Budget Monitoring and Control
  - Financial Implications of Reports
  - Treatment of Year End Balances
  - Accounting Policies
  - Accounting Records and Returns
  - The Annual Statement of Accounts
  - Companies
- C Risk Management and Control of Resources
  - Introduction
  - Risk Management
  - Insurance Arrangements
  - Internal Control

20

Audit Requirement  
Preventing Fraud and Corruption  
Assets  
Treasury Management  
Staffing

D Systems And Procedures

Introduction  
Income  
Ordering and Paying for Works, Goods and Services  
Contract Management  
Payments to Employees and Councillors  
Taxation  
Trading Accounts / Business Units

E External Arrangements

Introduction  
Partnerships  
External Funding  
Work for Third Parties  
Other Relationships

## DEFINITIONS

The meaning assigned to each expression shall apply throughout the City Council's Financial Regulations.

### Meanings

**'Accountable Body'** means the organisation that is responsible for external funding and ensuring it is spent in accordance with the conditions for which it was given. It is often used to define ultimate responsibility for grants and similar payments made into partnerships and other joint ventures.

**'Best Value'** means the statutory obligation on the City Council to make proper arrangements for securing continuous improvement in the economy, efficiency and effectiveness in the use of its resources and is 'the optimum combination of whole life costs and benefits to meet customer requirements'.

**'Capital Expenditure'** means all expenditure (from whatever source financed or to be financed) on the acquisition of land and buildings, the erection of buildings, the execution of works of a permanent nature and the purchase of vehicles, plant, machinery, equipment or furniture, or payments to third parties for such purposes.

**'Chief Finance Officer'** means the person designated as the Responsible Finance Officer as set out in Part 4 (Section 8), Formal Roles and Responsibilities, of the City Council's Constitution to be responsible for ensuring the proper administration of the City Council's financial affairs under Section 151 of the Local Government Act 1972.

**'City Council Department'** or **'Department(s)'** means all Departments within the City Council whether in the role of client or contractor.

**'Corporate Director(s)'** means those persons designated as such in Part 4 (Section 9), Formal Roles and Responsibilities, of the City Council's Constitution. For the purposes of these Financial Regulations the Chief Executive and Deputy Chief Executive shall be deemed to be Corporate Directors.

**'Corporate Financial Procedures'** (CFPs) are those process rules and standards formally approved by the Chief Finance Officer under delegated powers and which form part of the Financial Regulations.

**'Director of Legal and Democratic Services'** means the person exercising the functions of the Authority's Solicitor including the provision of legal advice to the Authority.

**'Emergency'** means an occurrence involving or likely to 'involve danger to life or health' or 'serious damage to property' or 'destruction of property'.

**'Financial Regulations'** means the rules of the City Council which include the Contract Procedure Rules (CPRs). They also include Corporate Financial Procedures (CFPs) which have been formally approved by the Chief Finance Officer.

**‘Formal Contract(s)’** means a scheme evidenced by a contract(s) in printed format, either under seal or merely signed, which is therefore not evidenced by the issue of an official order.

**‘Main Financial Systems’** means the following financial systems:

- Accounts Payable
- Cash Receipting
- Accounts Receivable
- Payroll/Personnel
- Main Accounting System (including Capital)
- Council Tax
- Supporting People
- NNDR
- Corporate Property
- Rents Housing Repairs
- Benefits Purchasing Cards

**‘Monitoring Officer’** means the person designated as Monitoring Officer as set out in Part 4 (Section 8), Formal Roles and Responsibilities, of the City Council’s Constitution.

**‘Overview and Scrutiny Committee’** means the Overview and Scrutiny Committee’s and any panels or boards it may choose to establish from time to time.

**‘Portfolio Holder’** means a councillor who has been delegated responsibility for specific service(s) and / or strategic issues (Portfolio) by the Leader of the Council.

**‘Scheme(s)’** means a requirement of the City Council involving the procurement of work, goods, materials or services for a specific purpose.

**‘Service Director’** means the person responsible for the direct management of services under their control.

**‘Supplier(s)’** means supplier(s) of work, goods, materials or services (including any City Council Department).

## **1 Introduction & Background**

- 1.1 To conduct business efficiently, every local authority needs to ensure that there are sound financial management policies in place and that they are strictly adhered to. Part of this process is the establishment of financial regulations that set out the financial policies of the organisation.
- 1.2 The financial regulations provide clarity about the financial accountabilities of individuals – portfolio holders, the head of paid service, the monitoring officer, the chief finance officer and other corporate directors. Each of the financial regulations sets out the overarching financial responsibilities.
- 1.3 The Council's Financial Regulations set the control framework for five key areas of activity:
  - A. Financial Planning
  - B. Financial Management
  - C. Risk Management and Control of Resources
  - D. Financial Systems and Procedures
  - E. External Arrangements
- 1.4 Nottingham City Council is one of England's eight core cities. It is a unitary authority providing all local government services for approximately 300,000 residents. With an annual budget of around £1bn, the Council's priorities are to make Nottingham cleaner and safer, raise the City's ambitions and make it a place to be proud of.
- 1.5 The Council is responsible for significant amounts of public money received from Central Government and raised locally through setting Council Tax and fees in order to ensure the provision of a wide range of services.
- 1.6 The City Council's governance structure is laid down in its Constitution, which sets out how the Council operates, how decisions are made and the procedures that are followed. This ensures that decisions are effective, efficient and transparent, so that the Council remains accountable to local people. Some of these procedures are required by law while others are a matter for the Council to determine. The Financial Regulations form part of the Constitution and set out the financial controls in place for Nottingham City Council.
- 1.7 The authority has adopted a Strong Leader and Cabinet model of Executive Governance. This gave to the Leader of the Council effective control of executive governance arrangements including choice of membership and size of the cabinet (known at Nottingham City Council as Executive Board), the allocation of portfolio responsibilities and general delegations of executive functions.

## **2 Status of Financial Regulations**

- 2.1 Financial Regulations provide the framework for managing the City Council's financial affairs, and set out the rules and processes that underpin the day to day management of public funds. The Financial Regulations include Contract Procedure Rules that govern the way in which work, goods, materials and services are procured by the Council.
- 2.2 The Financial Regulations apply to every councillor and colleague of the authority and anyone acting on its behalf, and all these individuals are required to abide by them in all circumstances. These responsibilities also apply when councillors or colleagues represent the City Council on outside bodies.
- 2.3 The regulations identify the financial responsibilities of:
  - Full Council,
  - Executive Board and other Committees of the Council,
  - the Head of Paid Service (Chief Executive),
  - the Monitoring Officer,
  - the Chief Finance Officer (CFO) and
  - other Corporate Directors.
- 2.4 The Leader of the Council, Portfolio Holders and Corporate Directors may vest their responsibilities in such other departmental colleagues in accordance with the process set out in the Scheme of Delegation in Part 4 of the Constitution. Such authorisation must be given in writing and Corporate Directors must always retain ultimate accountability for their responsibilities whether delegated to other people or not. Where decisions have been delegated or devolved to other responsible individuals, such as school governors, references to the Corporate Director in the regulations should be read as referring to them.
- 2.5 All councillors and colleagues have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is:
  - legal,
  - properly authorised, and
  - value for money.
- 2.6 The Authority's detailed financial procedures, setting out how the Regulations will be implemented, are hyperlinked through out this document where relevant and are also contained on the intranet with the financial regulations.

### **3 Overall Financial Responsibilities**

#### **THE FULL COUNCIL**

The Full Council's responsibilities include:

- 3.1 Adopting the Authority's Constitution and councillors' code of conduct and approving the policy framework and budget within which Executive Board operates.
- 3.2 Approving and monitoring compliance with the Authority's overall framework of accountability and control. The framework is set out in its constitution.
- 3.3 Monitoring compliance with the agreed policy and related executive decisions.
- 3.4 Approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its committees. The Scheme of Delegation details who has responsibility for which decisions and are set out in Part 4 of the Constitution.

#### **LEADER OF THE COUNCIL**

- 3.5 The Leader is elected by Full Council at its post election annual meeting (for a four year term). The term of office of the Leader starts on the day of his/her election as Leader and ends on the day of the next post election annual meeting (under whole elections). The Leader of the Council may determine to exercise any of the executive functions of Council personally, or may arrange for the exercise of any of the Council's executive functions by:

- the Executive; or
- by another Executive Councillor; or
- by a committee of the Executive; or
- by an officer of the Council.

The Leader also determines the size of the Cabinet (Executive) and appoints between 2 and 9 members of the Council to be the Executive Board in addition to him/herself, and allocates defined areas of responsibility for specific service and strategic issues (known as Portfolios) to them. The Leader appoints one of the members of the Executive Board to be his/her deputy, who will hold office until the end of the term of office as Leader.

- 3.6 Executive responsibilities include:

- taking key decisions (Leader, Executive Board and Executive Board Commissioning Sub Committee only);

- requiring the development of plans and strategies for approval by full Council that form the Policy Framework
  - discharging executive functions in accordance with the policy framework and budget.
- 3.7 The Leader is able to enter into partnership arrangements with one or more local authorities and/or their executives to exercise functions which are executive functions.

## **COMMITTEES OF THE COUNCIL**

### Executive Board

- 3.8 The executive board has responsibility, delegated by the Leader, for the Council's functions which are not the responsibility of any other part of the Council, whether by law or under the constitution. The detailed remit of the Executive Board is set out in Part 4 of the Constitution.

### Overview and Scrutiny Committee

- 3.9 The overview and scrutiny committee is responsible for scrutinising executive decisions before or after they have been implemented and for holding the Executive to account. It is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the authority. The detailed remit of the Overview and Scrutiny Committee is set out in Part 4 of the Constitution.

### Audit Committee

- 3.10 The audit committee is an advisory body and reports to the Full Council. It has right of access to all the information it considers necessary and can consult directly with internal and external auditors. Amongst other activities, the Committee is responsible for reviewing the external auditor's reports and the annual audit letter and internal audit's annual report. The detailed remit of the Audit Committee is set out in Part 4 of the Constitution.

### Standards Committee

- 3.11 The standards committee is established by the Full Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the council on the adoption and revision of the councillors' code of conduct, and for monitoring the operation of the code. The detailed remit of the Standards Committee is set out in Part 4 of the Constitution.

### Other Regulatory Committees

- 3.12 The regulatory committees are responsible for a range of decisions which concern applications for consents and licences of various kinds. There are three regulatory committees:
- the Development Control Committee
  - the Licensing Committee (and its Panels)
  - the Regulatory and Appeals Committee

## **SCHEME OF DELEGATION**

3.14 Part 4 of the Constitution sets out in detail who is responsible for the various functions of the Council.

## **THE STATUTORY OFFICERS**

3.15 Full Council makes and approves appointments to the following statutory positions:

## **HEAD OF PAID SERVICE**

3.16 The Head of Paid Service is responsible for:

- a. the corporate and overall strategic management of the Authority as a whole.
- b. establishing a framework for management direction, style and standards
- c. monitoring the performance of the organisation.
- d. The system of record keeping in relation to all the Full Council decisions, together with the Monitoring Officer
- e. Reporting to and providing information for:
  - the Full Council,
  - Executive Board,
  - the Overview and Scrutiny Committee, and other Committees

## **THE MONITORING OFFICER**

3.17 The Monitoring Officer is responsible for:

- a. promoting and maintaining high standards of financial conduct and therefore provides support to the Standards Committee.
- b. ensuring that executive decisions and the reasons for them are made public. He or she must also ensure that Council members are aware of decisions made by Executive Board and of those made by individuals who have delegated executive responsibility.
- c. reporting any actual or potential breaches of the law or maladministration to the Full Council and/or to Executive Board, and
- d. ensuring that procedures for recording and reporting key decisions are operating effectively.
- e. advising all councillors and colleagues about who has authority to take a particular decision.
- f. advising Executive Board or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- g. maintaining an up-to-date constitution.

- h. The Monitoring Officer (together with the Chief Finance Officer) is responsible for advising Executive Board or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- initiating a new policy
  - committing expenditure in future years to above the budget level
  - incurring interdepartmental transfers above virement limits
  - causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

## **CHIEF FINANCE OFFICER**

3.18. The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Authority. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- Local Government Act 2000
- The Accounts and Audit Regulations 2011
- Local Government Act 2003
- Money Laundering Regulations 2007

3.19 The Chief Finance Officer, who must be a member of a specified accountancy body (Section 113, Local Government Finance Act 1988), has the following personal statutory responsibilities:

- the proper administration of City Council's financial affairs (Section 151, Local Government Act 1972).
- setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- providing financial information
- preparing the revenue budget and capital programme
- treasury management

3.20 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council, Executive Board and external auditor if the Authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure

- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority
- is about to make an unlawful entry in the authority's accounts

3.21. Section 114 of the 1988 Act also requires:

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

3.22. The Chief Finance Officer is responsible for:

- a. Producing Financial Regulations for adoption by the Full Council and establishing Corporate Finance Procedures (CFPs) as required.
- b. Maintaining a continuous review of the financial regulations, and submitting any additions or changes necessary to the Full Council for approval.
- c. Reporting, where appropriate, breaches of the financial regulations to the council and/or to Executive Board members.
- d. Formally approving and amending CFPs under delegated powers.
- e. Advising Corporate Directors of any amendments to Financial Regulations, CFPs or CPRs and reviewing the values within such Regulations, Rules and Standards as required.
- f. Notifying the Portfolio Holder with responsibility for finance of new or amended CFPs prior to issue.
- g. Issuing advice and guidance to underpin the financial regulations that councillors, colleagues and others acting on behalf of the authority are required to follow.

## **CORPORATE DIRECTORS**

3.23 Corporate Directors are responsible for:

- a. managing the financial activities of their Department, within the framework and procedures determined by the Chief Finance Officer and through formal delegations contained in the [City Council's Constitution](#).
- b. ensuring that Executive Councillors are advised of the financial implications of all proposals and that the financial implications have been written by a representative of the Chief Finance Officer.
- c. signing contracts on behalf of the Authority.
- d. consulting with the Chief Finance Officer and seeking approval on any matter liable to affect the Authority's finances materially, before any commitments are incurred.

- e. ensuring that all colleagues in departments are aware of the existence and content of the Authority's financial regulations and other internal regulatory documents, and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their departments. They should also make colleagues aware that Financial Regulations and detailed Financial Procedures are available to view on the Council's [intranet site](#).
- f. operating corporately in partnership with other colleagues across the organisation to ensure good standards of financial management, governance and stewardship.
- g. ensuring departmental financial arrangements are adequate and effective in order to comply with Financial Regulations and CFPs.
- h. Corporate Directors may vest their responsibilities in other people provided that the Corporate Director gives their written authorisation and that it is done so in accordance with the detailed Scheme of Delegation set out in Part 4 of the Constitution. However, Corporate Directors always retain accountability for their responsibilities, even where responsibility may have been vested elsewhere within their Department.

## **PERSONAL RESPONSIBILITIES**

- 3.24 All financial decisions and decisions with financial implications must have regard to proper financial propriety. Where there is any doubt as to the appropriateness of a financial proposal or correctness of a financial action clarification must be sought from the Chief Finance Officer or their Departmental Representative, in advance of any decision or action. Failure to observe Financial Regulations may result in action under the City Council's [Disciplinary Procedure](#)
- 3.25 Any person concerned with the use or care of the City Council's resources or assets should ensure that they are fully conversant with the requirements of these Financial Regulations. The Financial Regulations and CFPs should be read in conjunction with the City Council's [Budget Management](#) Handbook and the '[How To](#)' guides available on the intranet.
- 3.26 All employees must immediately inform their line manager about any matter that involves or is thought to involve irregularities concerning cash, stores, income, expenditure, assets (including data held by the City Council) or any suspected irregularity concerning the exercise of the functions of the City Council. Line managers should consult with the Chief Finance Officer and the Head of Internal Audit, who will determine what further information is required and whether any investigation should be undertaken and if so, the conduct of that investigation.

## **DISPENSATIONS FROM FINANCIAL REGULATIONS**

- 3.27 There will be no dispensations from Financial Regulations except as follows:
  - [Emergency Action](#)

In the event of an 'Emergency' the Chief Executive or a Corporate Director is empowered to authorise all necessary actions. The Chief Executive or the Corporate Director must notify the Chief Finance Officer in writing, of the circumstances and estimated financial impact and report formally to the relevant service Portfolio Holder.

- Operational Issues (Dispensation is sought when the estimated value of the affected scheme is below Key Decision level)

Where the Chief Executive or a Corporate Director considers that there are justifiable reasons for dispensing with Contract Procedure Rules within Financial Regulations they may do so, following evidenced consultation with the Chief Finance Officer, provided that the Chief Executive or Corporate Director then obtains the agreement of the relevant Portfolio Holder to their decision through the Portfolio Holder decision process.

- Operational Issues (Dispensation is sought when the estimated value of the affected scheme is at or above Key Decision level)

With the prior approval of the Executive Board or the relevant Portfolio Holder and in consultation with the Portfolio Holder with responsibility for Finance, the provisions of the Contract Procedure Rules within Financial Regulations may be dispensed with. The Chief Finance Officer's observations must be included in any report seeking such a dispensation. The Chief Executive or a Corporate Director shall report the circumstances to the Chair of Overview and Scrutiny.

Any dispensations from Financial Regulations should be captured under the Portfolio Holder Decisions process.

### INTRODUCTION

A. Financial Planning covers all financial accountabilities in relation to the strategic direction of the Authority, including the policy framework which is included in the constitution, the Medium Term Financial Strategy (MTFS) and the Medium Term Financial Plan (MTFP).

A.1 The Full Council is responsible for agreeing the Authority's policy framework and budget, which will be proposed by Executive Board. In terms of financial planning, the key elements are:

- The Council Plan
- The Medium Term Financial Strategy (MTFS)
- The Medium Term Financial Plan (MTFP)
- The Annual Budget
- The Capital Strategy and Asset Management Plan
- The Treasury Management, Investment and Borrowing Strategies
- The Procurement Strategy
- The Risk Management Strategy
- The Income Generation Strategy
- The Debt Management Strategy

### POLICY FRAMEWORK

A.2. The Full Council is responsible for approving and adopting the policy framework and budget. The policy framework comprises the following plans and strategies:

- The Sustainable Community Strategy (The Nottingham Plan)
- Local Transport Plan
- Development Plan
- Licensing Policy
- Crime and Disorder Reduction Partnership Strategy
- Children and Young People's Plan
- Civil Contingencies Plans
  - Managing an Emergency
  - Pipeline Safety Plan

A.3 The Chief Finance Officer is responsible for publishing the MTFS which sets the aims, objectives and principles by which the Councils finances are planned and managed. The MTFS takes account of:

- Legal requirements
- Medium-term planning prospects
- The Council Plan
- Available resources
- Spending pressures

- Best value and other relevant government guidelines
  - Trends, demographics, economic conditions, organisational culture etc.
  - Other internal policy documents
  - Cross cutting issues (where relevant)
- A.4 The Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.
- A.5 The Full Council is responsible for setting the level at which Executive Board may reallocate budget funds from one service to another.
- A.6 Executive Board is responsible for taking decisions during the financial year on resources and priorities, in order to deliver the budget policy framework within the financial limits set by the full council.

### **Preparation of the Council Plan**

- A.7. The Chief Executive is responsible for proposing the Council Plan to Executive Board for consideration before its submission to the Full Council for approval.

## **BUDGETING**

### **BUDGET FORMAT**

- A.8. The content of the budget will be approved by the Full Council and proposed by Executive Board on the advice of the Chief Finance Officer. The draft budget must include allocation to different services and schemes, proposed taxation levels, contingency funds and level of reserves.

### **ALLOCATION OF RESOURCES**

- A.9. The Chief Finance Officer is responsible for ensuring that a revenue budget is prepared on an annual basis by the statutory date required and a MTFP on at least a three-yearly basis in accordance with the requirements of the MTFs for consideration by Executive Board, before submission to the Full Council. The Full Council may amend the budget or ask Executive Board to reconsider it before approving it.
- A.10 Corporate Directors are required to participate fully in the budget process in accordance with the MTFs and necessary standards and deadlines. They are responsible for ensuring that their financial and service planning activity results in accurate figures and plans being submitted for inclusion in the overall budget.

### **THE CAPITAL PROGRAMME**

- A.11 The Chief Finance Officer is responsible for:

- Submitting, annually to Executive Board, a report on the projected capital resources available and current programmed spend for the ensuing a minimum of three financial years.
- A regular review of available methods of financing the City Council's capital investment programmes.
- Recommending the allocation of available resources to Executive Board.
- Ensuring that the capital programme will be constructed in accordance with the principles outlined in the City Council's prevailing approved Capital Strategy including whole life costing, option appraisals, alignment with the SCS and Council Plan and the other key strategies as set out in the MTFS through the approved 'project prioritisation process.
- Ensuring that an appropriate 'project assessment process' is in place to strengthen project management and assist in assessing value for money.'

## **BUDGET MONITORING AND CONTROL**

### **REVENUE BUDGET MONITORING**

A.12 The Chief Finance Officer is responsible for:

- providing appropriate financial information to enable budgets to be monitored effectively;
- monitoring and reporting overall expenditure against budget allocations and publishing a report to Executive Board on the overall position on a regular basis, drawing attention to specific areas of concern and proposing action to deal with these areas.

A.13 It is the responsibility of Corporate Directors to:

- control income and expenditure within their area and to monitor actual and forecast performance;
- report to the Chief Finance Officer and to the relevant Portfolio Holder on variances within their own areas;
- report when variations from the approved budget are forecast, alerting the Chief Finance Officer to any problems and preparing and implementing corrective action.
- ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Corporate Director. These budget managers are personally accountable for delivering their planned service outputs within the budget allocated to them;
- ensure prior approval by the Leader and the relevant Portfolio Holder and Monitoring Officer (where required in 3.17) and notification to Executive Board of new proposals, which fulfil one or more of the following criteria:
  - a. create financial commitments in future years in excess of existing budgets
  - b. change existing policies, initiate new policies or cease existing policies
  - c. materially extend or reduce the Authority's services

- d. exceed the limit defined by the Council as a key financial decision
- e. exceed any limit set by the Leader as requiring reference to him or a Portfolio Holder
- f. any such proposals under this regulation shall not have approval to proceed until necessary financial provision is available within approved budgets
- g. ensure compliance with the scheme of virement as set out in the Corporate Finance Procedure on Virements and the MTFS.

## **CAPITAL BUDGET MONITORING**

A.14 The Chief Finance Officer is responsible for:

- preparing and submitting regular reports on the Authority's projected capital expenditure and resources compared with the budget.
- establishing procedures to monitor and report on performance compared to the prudential indicators set by the Council.
- Notifying Executive Board on performance and any variations on approved budget

A.15 Corporate Directors are responsible for:

- preparing regular reports reviewing the Capital Programme provisions for their services;
- ensuring an accountable officer is appointed for each capital scheme
- any additions or deletions to the Capital Programme shall seek the appropriate approval as outlined in the Capital Strategy
- ensuring all approved schemes are managed in accordance with the Capital Strategy

A.16 Resources may be vired from one capital project or heading in accordance with virement rules and in line with the approved Capital Strategy.

A.17 Executive Board has overall responsibility for monitoring financial performance against the budget during the financial year, considering significant developments affecting the financial position of the City Council and determining how any changed circumstances will be resolved.

## **MAINTENANCE OF RESERVES**

A.18 It is the responsibility of the Chief Finance Officer to advise Executive Board and / or the Full Council on prudent levels of reserves for the Authority as set out in the MTFS.

## **INTRODUCTION**

B Financial management covers all financial accountabilities in relation to the operation of the Authority, including the policy framework which is included in the Constitution, the Medium Term Financial Strategy (MTFS) and the Medium Term Financial Plan (MFTP).

B.1 The Chief Finance Officer is responsible for:

- ensuring that a financial framework is in place and effective systems of financial administration are operating within the Authority;
- maintaining and updating Financial Regulations and the management of a process for monitoring compliance with them;
- ensuring proper professional practices are adhered to and acting as head of profession in relation to the standards, performance and development of finance colleagues throughout the Authority;
- advising on the key strategic controls necessary to secure sound financial management;
- ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators;
- ensuring that Internal Audit carry out a programme of probity and system checks required to establish the effectiveness of financial management standards in place.

B.2 Corporate Directors are responsible for:

- seeking advice from the Chief Finance Officer on financial control and participating fully in the Council's financial management activity
- ensuring compliance with the financial framework
- ensuring all colleagues have received training on financial management matters to ensure compliance with corporate procedures

## **Budget Monitoring and Control**

B.3 The budget monitoring and control responsibilities are listed in Section A under Financial Planning – please refer to sections A10 to A15.

## **Financial Implications of Reports**

B.4 The Chief Finance Officer is responsible for:

- monitoring the quality of the financial implications information included in reports by Corporate Directors;
- providing financial implications where there are corporate implications and especially when corporate resources (revenue or capital) are required.

B.5 The Corporate Directors are responsible for:

- ensuring that financial implications are obtained, understood and acted upon following completion of Legal and HR comments on reports, from the Chief Finance Officer or a nominated representative;
- ensuring that where reports impact on other departments, are joint reports or have implications for corporate resources, financial implications are requested from other departments and a copy of the report is submitted to the Chief Finance Officer or nominated representative for clearance;
- ensuring in all relevant circumstances, that financial implications referred to in reports are reflected in current budgetary provisions or the Medium Term Financial Plan.

### **Treatment of Year End Balances**

B.6 The Chief Finance Officer is responsible for defining the protocol for any year end underspends or overspends as outlined in the MTFS.

### **Accounting Policies**

B.7 The Chief Finance Officer is responsible for selecting suitable accounting policies and ensuring that they are applied consistently.

### **Accounting Records and Returns**

B.8 The Chief Finance Officer is responsible for determining the accounting procedures and records for the Authority.

### **The Annual Statement of Accounts**

B.9 The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA / LASAAC). The Audit Committee is responsible for approving the annual statement of accounts.

### **Companies**

B.10 The Chief Finance Officer is responsible for providing guidance on setting up Companies.

B.11 Corporate Directors are responsible for seeking approval from the Chief Finance Officer and Head of Legal before setting up a company or establishing formal relationships with any external organisation.

## **INTRODUCTION**

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

## **RISK MANAGEMENT**

- C.1 Audit Committee is responsible for approving the Authority's [Risk Management Framework](#) and for reviewing the effectiveness of risk management. Executive Board is responsible for ensuring that proper insurance exists where appropriate.
- C.2 The Chief Finance Officer is responsible for preparing the authority's risk management policy statement, for promoting it throughout the authority and for advising Executive Board on proper insurance cover where appropriate.

## **INSURANCE ARRANGEMENTS**

- C.3 The City Council's Insurance and Risk Management Team shall be responsible for arranging all relevant insurance cover and delivery of claims handling.
- C.4 Corporate Directors shall be responsible for ensuring that all property, equipment, cash and appropriate risks, for which loss arrangements should be in place are notified to the City Council's Insurance and Risk Management Service, to allow effective strategies to deal with such losses to be effected.

## **INTERNAL CONTROL**

- C.5 Internal control refers to the systems of control devised by management to help ensure the Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.
- C.6 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.7 It is the responsibility of Corporate Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

## AUDIT REQUIREMENT

- C.8 The Accounts and Audit Regulations 2011 require every local authority to maintain an adequate and effective internal audit.
- C.9 The annual audit plan must be approved by Audit Committee each year following consultation between Corporate Directors, the Chief Finance Officer and the Head of Internal Audit.
- C.10 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by Section 5 of the Audit Commission Act 1998.
- C.11 The Authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue & Customs and the Inland Revenue, who have statutory rights of access.

## PREVENTING FRAUD AND CORRUPTION

- C.12 The Chief Finance Officer is responsible for the development maintenance publication of a [Counter Fraud Strategy](#) which sets out the Council's position on fraud and which is in place to provide clarity to colleagues on how to minimise, identify and respond to fraud. There are also instructions on how to avoid corruption within the [Code of Conduct for Employees](#).
- C.13 [The Whistleblowing Procedure](#) sets out the kind of complaints that can be raised with the Monitoring Officer or a line manager. It also states that managers and those raising complaints can go to the Monitoring Officer, the Chief Finance Officer or the Director of HR & Transformation for advice. The procedure also aims to reassure those raising a complaint in good faith that they will not suffer detriment.

## ASSETS

- C.14 Corporate Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

## TREASURY MANAGEMENT

- C.15 Treasury Management is the management of the local authority's cash flows, its borrowings and its investments, the management of the associated risks and the pursuit of the optimum performance or return consistent with those risks.
- C.16 The authority has adopted CIPFA's [Code of Practice for Treasury Management in Local Authorities](#).
- C.17 The Full Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of

Practice for Treasury Management in Local Authorities. The policy statement is proposed to the Full Council by Executive Board. The Chief Finance Officer has delegated responsibility for implementing and monitoring the statement.

- C.18 All money in the hands of the Authority is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Chief Finance Officer.
- C.19 The Chief Finance Officer is responsible for reporting to Executive Board a proposed treasury management strategy for the coming financial year at or before the start of each financial year.
- C.20 All executive decisions on borrowing, investment or financing shall be delegated to the Chief Finance Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- C.21 The Chief Finance Officer is responsible for reporting to Executive Board not less than three times in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. This includes an annual report following the end of the financial year.

## **STAFFING**

- C.22 The Head of Paid Service (the Chief Executive) is responsible for determining how colleague support executive and non-executive roles within the Authority and how it will be organised.
- C.23 The Chief Executive is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- C.24 Corporate Directors are responsible for controlling total staff numbers by:
- advising Executive Board on the budget necessary in any given year to cover estimated staffing levels
  - adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
  - the proper use of appointment procedures.

## **FINANCIAL REGULATION D – Systems and Procedures**

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

### **INTRODUCTION**

D.1 The Chief Finance Officer is responsible for:

- the operation of the authority's accounting systems
- the form of accounts, and the supporting financial records
- compiling, in consultation with Corporate Directors, a Business Continuity Plan to provide for as normal a continuation of financial services as possible in the event of any incident affecting systems used to deliver those services
- approving any changes to existing financial systems or any new systems before they are introduced

D.2 Corporate Directors are responsible for:

- the proper operation of systems and financial processes in their own departments in accordance with Council-wide standards.
- obtaining approval from the Chief Finance Officer in writing prior to any changes to agreed procedures to meet their own specific service needs.
- ensuring that their colleagues receive relevant financial training that has been approved by the Chief Finance Officer.
- ensuring that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Corporate Directors must also ensure that all their colleagues are aware of their responsibilities under freedom of information legislation.

### **INCOME**

D.3 The scheme of delegation must identify staff authorised to act on the Corporate Director's behalf, or on behalf of Executive Board, in respect of payments, income collection and placing orders, together with the limits of their authority

D.4 The Chief Finance Officer is responsible for:

- The Debt Management Strategy which outlines the procedures for income and write offs
- Ensuring that appropriate accounting adjustments are made following write off action
- Ensuring in consultation with Corporate Directors that adequate provision is made for potential bad debts arising from uncollected income

D.5 Corporate Directors are responsible for:

- Ensuring that a proper scheme of delegation has been established within their area and is operating effectively.
- Ensuring that there is a fundamental annual review of all fees and charges in their remit in accordance with the Income Strategy and that proposals for the level of fees and charges are approved by relevant Portfolio Holder
- Ensuring that the agreed charging policy is implemented and consistently applied in respect of each relevant activity and service
- Holding secure receipts, tickets and other records of income

**Ordering and Paying for Works, Goods and Services**

D.6 The Chief Finance Officer is responsible for:

- making payments from the Authority's funds on correct authorisation that the expenditure has been duly incurred in accordance with Financial Regulations;
- defining the requirements for the checking and certification of invoices prior to payment to confirm that the goods have been ordered and received, the invoice is in order and is certified for payment by the nominated budget manager;
- ensuring that all the Council's financial systems and procedures for ordering and paying for works, goods and services are sound and properly administered
- making payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a Court Order;
- ensuring that only staff authorised sign orders and to ensure an up-to date list of such authorised staff is maintained, including specimen signatures identifying in each case the limits of their authority;
- making appropriately approved payments for expenditure duly incurred in accordance with Financial Regulations and Corporate Finance Procedures.

D.7 Corporate Directors are responsible for:

- ensuring that the Council's corporate financial systems are used for payment for work, goods and services except where specialist systems are used in agreement with the Chief Finance Officer;
- ensuring that purchase orders are always raised within their area for purchases unless a dispensation applies;
- ensuring that all colleagues involved in the ordering and management of goods and services follow the corporate process unless written agreement to the contrary has been given by the Chief Finance Officer;
- ensuring that payments are not made in advance of goods being supplied, work done or services rendered to the Council except with the approval of the Chief Finance Officer;
- ensuring that their department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, which are in line with best value principles as contained in the Authority's Procurement Strategy;
- utilising the purchasing procedures outlined in the Authority's Code of Practice for Tenders and Contracts;

- ensuring that no contract, agreement or other document is signed or sealed unless it gives effect to: a decision or resolution (in accordance with the Council's Constitution) of the Leader, the Portfolio Holder, an authorised committee or sub committees or a decision by an individual exercising delegated power;
- ensuring that budgetary provision exists before any contract can be entered into.

### **Contract Management**

- D.8 The Chief Finance Officer and the Monitoring Officer are responsible for providing Contract Procedure Rules to give advice and guidance on contract management.
- D.9 Corporate Directors are responsible for ensuring that the Contract Procedure Rules are adhered to by colleagues within their department

### **PAYMENTS TO EMPLOYEES AND COUNCILLORS**

- D.10 The Chief Finance Officer is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to councillors.
- D.11 Corporate Directors are responsible for:
- ensuring that all appointments are made in accordance with the Council's regulations and approved establishments, grades and scales of pay.
  - ensuring that adequate budget provision exists for each employee appointments, all permanent and temporary variations relating to employee appointment and all engagements of self-employed persons

### **TAXATION**

- D.12 The Chief Finance Officer is responsible for:
- advising Corporate Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Authority.
  - maintaining the Authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- D.13 Corporate Directors are responsible for:
- consulting with, and seeking advice from in advance, the Chief Finance Officer on the potential tax implications of any new initiatives for the delivery of Council activity and services, including those that could impact on the Council's partial exemption.

## **TRADING ACCOUNTS / BUSINESS UNITS**

- D.14 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units.

## **INTRODUCTION**

- E.1 The City Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social and environmental well-being of Nottingham.
- E.2 Elected councillors and colleagues of the Council carry out many of their duties and responsibilities in partnership with other organisations, which may include other local authorities, other public sector service providers, private companies and voluntary or community sector organisations. A number of the partnerships that the Authority participates in have statutory responsibilities to discharge, whereas others are formed voluntarily where there is perceived to be a benefit to be achieved by working in co-operation with others.
- E.3 Many colleagues and councillors will see the work that they do with partnerships as being part of their job with the Council, but to differing degrees they may become involved in the management or running of partnerships and in decisions about use or allocation of resources, whether or not they call themselves Directors, Committee Members or Trustees.

## **PARTNERSHIPS**

- E.4 Executive Board is responsible for approving delegations, including frameworks for partnerships. Executive Board is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E.5 Executive Board can delegate functions – including those relating to partnerships – to colleagues. These are set out in the scheme of delegation that forms Part 4 of the Authority's Constitution. Where functions are delegated, Executive Board remains accountable for them to the Full Council.
- E.6 The Chief Executive, or their appointed nominee, represents the City Council on partnership and external bodies, in accordance with the scheme of delegation.
- E.7 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the City Council.
- E.8 The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

- E.9 Corporate Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- E.10 Corporate Directors must appoint, in writing, a named Lead Officer to undertake the following responsibilities:
- project management of the appraisal process
  - representing the interests of the City Council
  - assisting in project managing the creation of the new entity, and
  - monitoring performance.
- E.11 Where the City Council, as a member of a partnership bidding for capital and revenue funds under various grant programmes, is to act as the Accountable Body, it automatically assumes accountability for the financial probity of the Partnership in relation to the receipt and use of that grant.
- E.12 In order to eradicate or minimise risk to the City Council acting as the Accountable Body, an Accountable Body Team shall be appointed to ensure that the requirements of the Chief Finance Officer are met. The Team shall be responsible for advising the Partnership on procedures to be adopted to fulfil the requirements for funding laid down by the Government or any other funding body or organisation under that programme.

## **EXTERNAL FUNDING**

- E.13 The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies and must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

## **WORK FOR THIRD PARTIES (CFP E3)**

- E.14 Corporate Directors are responsible for ensuring appropriate approval for any contractual arrangement for any work for third parties or external bodies in their area.

## **OTHER RELATIONSHIPS**

- E.15 Where other relationships are identified that do not meet the criteria of Financial Regulation E12 – E14, the Corporate Director shall agree the key controls and reporting requirements with the Chief Finance Officer.

## **2. Contract Procedure Rules**

### **Contents**

<u>Paragraph</u>	<u>Section</u>
1	Compliance
2	Best Value
3	Partnering/Framework Arrangements
4	Selection of Suppliers
5	Invitations to Suppliers
6	Tendering Procedures
7	Procedures for Quotation and Tender Discussion and/or Clarification
8	Acceptance of Quotations and Tenders
9	Orders and Contracts
10	Supplier Performance
11	Payments
12	Performance Security Arrangements
13	Insurances
14	Consultants
15	Records
16	Audit Examination

## 1 **Compliance**

- 1.1 The purpose of these Contract Procedure Rules is to safeguard the interests of the City Council, its employees, or any person acting on behalf of the City Council.
- 1.2 These Contract Procedure Rules must be followed by every City Council employee and any person acting on behalf of the City Council every time there is a requirement of the City Council to procure work, goods, materials or services under a contract. All necessary legal, financial and professional advice must be taken by such employees or by such persons to ensure compliance with these Contract Procedure Rules.
- 1.3 Every City Council employee must ensure that they are aware of and observe the provisions of the City Council's [Code of Conduct for Employees](#).
- 1.4 Corporate Directors shall ensure that the City Council complies with the statutory obligation to secure Best Value and that the City Council complies with other legislation for the time being in force.
- 1.5 These Contract Procedure Rules shall be read in conjunction with the City Council's [Procurement Strategy](#), and the [Procurement Toolkit](#).
- 1.6 Corporate Directors shall use the City Council's e-tendering system to procure work, goods, materials or services unless a departure from that process is expressly given by the Senior Procurement Manager.

## 2 **Best Value**

- 2.1 Best Value requires the City Council to make proper arrangements for securing continuous improvement in the economy, efficiency and effectiveness in the use of its resources and is the optimum combination of whole life costs and benefits to meet customer requirements.

**Note:** More information relating to whole life costing is available on the Office of Government Commerce website at <http://www.ogc.gov.uk>.

- 2.2 The [CIPFA Standing Guide to the Commissioning of Local Authority Work and Services](#) sets out guidance on compliance with the Public Contracts Regulations 2006 and any re-enactment(s) of them, together with comprehensive guidance to the whole process of securing Best Value.
- 2.3 Corporate Directors shall make use of the Corporate Procurement Toolkit to procure work, goods, materials or services on behalf of the City Council.
- 2.4 Best Value requires the City Council to identify those quotations and tenders which will secure the best balance of price against quality over the whole life of the scheme.

- 2.5 The best and most widely accepted way of securing the necessary transparency in the evaluation of all the price and quality factors contained in quotations and tenders received is to adopt a robust points system which provides a pre-disclosed maximum number of points for price and for each factor in quality.
- 2.6 Corporate Directors shall adopt the Quotation/Tender Evaluation Models recommended by the Corporate Procurement Unit or set out in the Corporate Procurement Toolkit, to ensure compliance with the requirements of these Contract Procedure Rules, where any scheme has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force.
- 2.7 Corporate Directors shall adopt the Quotation/Tender Evaluation Models recommended by the Corporate Procurement Unit or set out in the [Corporate](#) Procurement Toolkit to ensure compliance with the requirements of these Contract Procedure Rules where any scheme does not have a procurement requirement falling within the EU procurement regime or, if it does, whose value, or (if made up of a series of related schemes) whose aggregate value is not likely to exceed the relevant EU threshold figure for the time being in force.

### **3 Partnering/Framework Agreements**

- 3.1 Corporate Directors shall adopt an integrated approach to procurement by actively considering whether the use of partnering or framework agreements is an appropriate form of service delivery for any of their services.
- 3.2 The overriding ethos of partnering is to provide a formal legally binding relationship that allows each party to a project to form a partnering team to work together to deliver the project in line with the principles of Best Value.
- 3.3 The early integration of the partnering team and the procurement process can achieve substantial improvements in the procurement of projects.
- 3.4 Partnering requires the partners to deal fairly with each other and work together in a spirit of mutual trust, respect, good faith, co-operation and dedication to agreed common goals and an understanding of each other's expectations and values.
- 3.5 Partnering is designed to facilitate collaborative working which can be achieved through either project partnering or strategic alliancing, which is the grouping of a number of projects in order to obtain the benefits of long-term relationships.
- 3.6 Corporate Directors shall ensure that the collaborative culture is fully embedded in all procedures, where partnering has been adopted.

- 3.7 There are various contract options available to provide a contractual arrangement to suit a partnering environment. These contracts have been developed on the basis of clear guidance from the Construction Industry Council and embrace the recommendations of Sir John Egan and Sir Michael Latham.
- 3.8 Framework agreements established in pursuance of the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them by other contracting authorities shall be used where it is possible for the City Council to access such frameworks and where such use will ensure compliance with the requirements of these Contract Procedure Rules (refer to paragraph 4.2.4 of these Contract Procedure Rules for framework agreements directly established by the City Council).
- 3.9 Corporate Directors shall ensure that the details of every partnering contract and framework agreement option is referred to a Legal Services Manager for a consideration of the suitability of the arrangement concerned and the City Council's legal liability before such arrangement is concluded.

**Note:** More information on partnering can be found at [www.ogc.gov.uk](http://www.ogc.gov.uk) and in the [CIPFA Standing Guide to the Commissioning of Local Authority Works and Services](#).

#### 4 **Selection of Suppliers**

- 4.1 Corporate Directors shall ensure compliance with the City Council's [Corporate Procurement Contracts](#) currently in force to procure work, goods, materials or services. These are arrangements established by the City Council's Senior Procurement Manager, which in part, are operated in conjunction with the City Council's Purchasing Card Scheme outlined in paragraph 4.9 of these Contract Procedure Rules.
- 4.1.1 Where a corporate procurement arrangement has not been established, Corporate Directors shall ensure that quotations and tenders be invited by the use of one of the following approaches:
- 4.1.1.1 EU public procurement – the EU public procurement regime is mandatory for any scheme which has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force.
  - 4.1.1.2 Approved Lists.
  - 4.1.1.3 Joint procurement arrangements / frameworks/ purchasing consortia arrangements established by other contracting authorities.

- 4.1.1.4 Office of Government Commerce (OGC) Buying Solutions framework contracts or other such like contracts.
- 4.1.1.5 Suitable suppliers derived from a competitive selection process conducted in consultation with the Senior Procurement Manager and where necessary, also with a Legal Services Manager.
- 4.1.2 Corporate Directors are encouraged to adopt a collaborative approach to procurement, where appropriate, through the use of partnering as described in paragraph 3 of these Contract Procedure Rules. A partner is obtained through a competitive selection process which can be demonstrated by using any of the arrangements set-out in paragraph 4.1 of these Contract Procedure Rules.

## 4.2 **EU Public Procurement including Framework Agreements**

- 4.2.1 Corporate Directors shall ensure that the letting of a scheme which has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force, complies with the requirements of the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them in respect of technical specifications and procedures covering the seeking of tenders, the selection of the successful supplier(s) and awards.
- 4.2.2 Corporate Directors shall ensure that any scheme which has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force is referred to the City Council's Senior Procurement Manager to ensure compliance with the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them.
- 4.2.3 Corporate Directors shall ensure that the appropriate advertisements are placed in the Official Journal of the European Union (OJEU) and other relevant publications in conjunction with the City Council's Senior Procurement Manager. The City Council's Senior Procurement Manager shall maintain a register of such advertisements so placed.
- 4.2.4 Corporate Directors shall ensure compliance with the requirements of the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them where it is intended that the City Council should enter into a framework agreement for any scheme which has a procurement requirement falling within the EU procurement regime and, if so,

whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force (refer to paragraphs 3.8, 4.4 and 4.5 of these Contract Procedure Rules for the use of framework agreements established by other contracting authorities).

4.2.5 Corporate Directors shall have the discretion, in consultation with the City Council's Senior Procurement Manager, to adopt the requirements of the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them where it is intended to enter into a framework agreement for any scheme which does not have a procurement requirement falling within the EU procurement regime or, if it does, whose value, or (if made up of a series of related schemes) whose aggregate value is not likely to exceed the relevant EU threshold figure for the time being in force, otherwise the requirements of these Contract Procedure Rules shall be complied with.

4.2.6 Corporate Directors shall ensure that framework agreements are created and maintained whenever it is deemed appropriate in pursuit of securing continuous improvement in the economy, efficiency and effectiveness in the use of City Council's resources to secure Best Value for the City Council.

#### 4.3 **Approved Lists**

4.3.1 Corporate Directors may use approved lists of contractors where procurement law allows for this. Such approved lists may only be established, maintained and used strictly in accordance with the requirements of the Chief Finance Officer.

#### 4.4 **Joint Procurement Arrangements / Frameworks/ Purchasing Consortia**

4.4.1 To fulfil their requirements, Corporate Directors may use a number of arrangements established outside the City Council by other parties, provided that those parties are "contracting authorities" as defined by the Public Contracts Regulations and any re-enactment(s) of them, these arrangements being:

4.4.1.1 Joint procurement arrangements with other local authorities.

4.4.1.2 Framework arrangements established by contracting authorities such as the East Midlands Property Alliance (EMPA).

4.4.1.3 Purchasing consortia established by contracting authorities such as the Eastern Shires Purchasing Organisation (ESPO).

- 4.4.2 Any requirement of the City Council involving the procurement of work, goods, materials or services via joint procurement arrangements with other local authorities, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, shall be deemed to comply with the corresponding requirements of these Contract Procedure Rules.
- 4.4.3 Framework arrangements established by contracting authorities must be evaluated and approved by the Senior Procurement Manager and a Legal Services Manager before being used.
- 4.4.4 Any requirement of the City Council involving the procurement of work, goods, materials or services via the use of purchasing consortia shall be deemed to comply with the requirements of these Contract Procedure Rules covering the seeking of quotations or tenders, the selection of the successful supplier(s) and awards.
- 4.4.5 In all cases where the fulfilment of requirements using arrangements referred to in paragraph 4.4.1 of these Contract Procedure Rules is being considered, Corporate Directors must be satisfied that the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them have been complied with by the other contracting authorities, otherwise the requirements of these Contract Procedure Rules shall be followed.
- 4.4.6 Corporate Directors shall ensure that the proposed terms and conditions that are to apply are adequate and appropriate and where necessary shall refer them to a Legal Services Manager for a consideration of the suitability of the arrangement concerned and of the City Council's legal liability before proceeding with or entering into any arrangement referred to in paragraph 4.4.1 of these Contract Procedure Rules.
- 4.4.7 Corporate Directors shall ensure that the terms and conditions entered into are complied with.
- 4.4.8 Corporate Directors shall ensure that where a framework agreement is entered into, the provisions of such agreement regarding the number of suppliers to be invited to provide quotations or to submit tenders in pursuance of that agreement are followed, notwithstanding the requirements of paragraph 5 of these Contract Procedure Rules.

4.5 **Office of Government Commerce (OGC) Buying Solutions Framework Contracts**

- 4.5.1 Corporate Directors may make use of the Office of Government Commerce (OGC) Buying Solutions framework contracts or other such like contracts and the use of them shall be deemed to comply with the requirements of these Contract Procedure Rules covering the seeking of quotations or tenders, the selection of the successful supplier(s) and awards.
- 4.5.2 Corporate Directors must be satisfied that the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them have been complied with; otherwise the requirements of these Contract Procedure Rules shall be followed.
- 4.5.3 Corporate Directors shall ensure that the proposed terms and conditions that are to apply are adequate and appropriate and where necessary refer them to a Legal Services Manager for a consideration of the suitability of the arrangement concerned and of the City Council's legal liability before proceeding with or entering into OGC Buying Solutions contracts or any other such like contracts.
- 4.5.4 Corporate Directors shall ensure that the terms and conditions entered into are complied with.

#### 4.6 **Suitable Suppliers**

- 4.6.1 Corporate Directors shall, in consultation with the Senior Procurement Manager and where necessary, also with a Legal Services Manager, have discretion to invite quotations and tenders from suppliers known to be suitable and eligible for inclusion into the relevant approved list(s).
- 4.6.2 Corporate Directors, however, are under a statutory obligation to secure Best Value.

#### 4.7 **Corporate Procurement Arrangements**

- 4.7.1 The City Council's Senior Procurement Manager shall ensure that each City Council corporate procurement arrangement be established in accordance with the provisions of these Contract Procedure Rules.

#### 4.8 **Vetting of Suppliers**

- 4.8.1 Corporate Directors shall ensure that suppliers are vetted for financial stability, technical competence, managerial capability, previous performance and (but only so far as is relevant to a procurement process and is lawful) for the ability to comply with any national legislation and City Council policies and procedures before each scheme is let or before being included into the relevant approved list(s), whichever is the earlier. Where

applicable, Corporate Directors shall ensure that suppliers meet adequate and appropriate standards of health and safety.

- 4.8.2 Corporate Directors shall ensure that suppliers are subsequently vetted at intervals not exceeding 3 years, for technical competence, managerial capability, previous performance and, where applicable, health and safety, and for financial stability at intervals not exceeding 12 months, to verify or otherwise their continuance in the relevant approved list(s).
- 4.8.3 Corporate Directors shall ensure that all properly vetted suppliers can be brought into the relevant approved list(s) at any time.
- 4.8.4 Corporate Directors shall ensure that all suppliers of construction and engineering related work, howsoever sourced, have adopted the City Council's '[Code of Practice for Employment and Training : Construction Sector 2002](#)', or its successor, and have endorsed its principles and agreed to implement its actions, before each scheme is let.

#### 4.9 **Purchasing Cards**

4.9.1 Corporate Directors shall:

4.9.1.1 Maximise the use of the City Council's Purchasing Card Scheme as outlined in [The Purchase Card Procedure Guide](#), as part of their procurement regime.

4.9.1.2 Ensure that purchasing cards are used:

4.9.1.2.1 in the procurement process for goods, materials and services where arrangements for their use has been made in conjunction with the City Council's Senior Procurement Manager. These are listed in Appendix 6 of [The Purchase Card Procedure Guide](#);

4.9.1.2.2 in support of procurement over the internet on secure sites and in accordance with the guidance provided in Appendix 7 of [The Purchase Card Procedure Guide](#); and

4.9.1.2.3 in other circumstances agreed with the Chief Finance Officer.

#### 5 **Invitations to Suppliers**

5.1 **Procurement of schemes for work, goods, materials and services (including schemes involving construction and engineering related work):**

- 5.1.1 Where the estimated value of a scheme over the whole life of the scheme is between £10,000 and £50,000 (between £5,000 and £50,000 for Schools), Corporate Directors shall make every effort to obtain at least 3 quotations in writing, except where corporate contracts have been established by the City Council's Senior Procurement Manager or where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules. Corporate Directors, however, may elect to seek tenders in lieu of quotations.
- 5.1.2 Where the estimated value of a scheme over the whole life of the scheme exceeds £50,000 (also £50,000 for Schools), Corporate Directors shall make every effort to obtain at least 3 tenders in writing, except where corporate contracts have been established by the City Council's Senior Procurement Manager or where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules.
- 5.2 Formal Quotations and Tenders need not be sought:
- 5.2.1 If the estimated value of a scheme over the whole life of the scheme is less than £10,000 (£5,000 for Schools).
- 5.2.2 In the event of an emergency (Financial Regulation 3.27).
- Corporate Directors, however, shall ensure that the most suitable arrangement is secured for the City Council and the details are recorded in writing.
- 5.3 Corporate Directors shall ensure that the City Council's e-tendering system shall be used wherever possible when inviting and receiving quotations and tenders electronically.
- 5.4 In consultation with a Legal Services Manager, the Senior Procurement Manager shall ensure that the City Council's e-tendering system complies with the requirements of the Public Contracts Regulations 2006 and any re-enactment(s) of them.
- 5.5 Other methods such as e-auctions and dynamic purchasing systems may be used to invite and receive quotations and tenders electronically, provided there is no conflict with the requirements of the Public Contracts Regulations 2006 and any re-enactment(s) of them, otherwise the requirements of these Contract Procedure Rules shall be complied with.
- 5.6 Corporate Directors shall ensure that any individual scheme is not artificially divided into two or more separate schemes with the intention of avoiding the application of these Contract Procedure Rules.

- 5.7 Corporate Directors shall ensure that each individual scheme be packaged to secure Best Value for the City Council.
- 5.8 Corporate Directors shall ensure that suppliers invited to provide quotations or to submit tenders are contacted and (regardless of the process being used) a record maintained on the City Council's e-tendering system of the requests made and their agreement to provide quotations or submit tenders.
- 5.9 Corporate Directors shall ensure that where there is a multiple stage process for inviting quotations or tenders then any criteria to be used for short-listing suppliers throughout such process is robust and transparent and shall make use of the assistance available from the Corporate Procurement Unit or set out in the [Corporate](#) Procurement Toolkit.
- 5.10 Corporate Directors shall ensure that a realistic period be stipulated in the invitations to suppliers to provide quotations or to submit tenders, with a minimum period of ten working days allowed for a response. This period may be reduced provided the special circumstances are recorded.
- 5.11 Corporate Directors shall ensure that invitations to suppliers to provide quotations or to submit tenders for work, goods, materials or services, incorporate:
- 5.11.1 the requirements set-out in these Contract Procedure Rules appropriate to the circumstances of the invitation;
  - 5.11.2 a specification that describes the City Council's requirements in sufficient detail to enable the submission of competitive offers;
  - 5.11.3 the nature and quantity of the work, goods, materials or services that is required;
  - 5.11.4 the time, or times, within which the work or services are to be performed or the goods and materials are to be delivered;
  - 5.11.5 a notification that assignment or sub-contracting is not permitted without prior written consent from the City Council, unless the circumstances of the particular invitation require a different approach;
  - 5.11.6 a notification that quotations are provided and tenders are submitted to the City Council on the basis that they are compiled and delivered at the supplier's expense and that, in no circumstances, will the City Council contribute to such expenses whatever the outcome of the procurement process;
  - 5.11.7 a notification that the City Council is not bound to accept the lowest or any quotation or tender for a specific scheme;

- 5.11.8 a Certificate of Bona Fides;
  - 5.11.9 a Form of Tender;
  - 5.11.10 adequate and appropriate provisions regarding insurances, health and safety, equality and diversity, data protection and freedom of information;
  - 5.11.11 adequate and appropriate price adjustment provisions (unless the circumstances of the particular invitation require a different approach), [anti-collusion provisions](#); [anti-corruption provisions](#) and [anti-fraud provisions](#) (refer to paragraph 9.7(vi) of these Contract Procedure Rules);
  - 5.11.12 robust and transparent award criteria to be used in evaluating quotations or tenders received to ensure compliance with the requirements of these Contract Procedure Rules; and/or
  - 5.11.13 any other relevant items that are considered necessary.
- 5.12 Corporate Directors shall ensure that the information set-out in paragraphs 5.11.1 to 5.11.13 inclusive of these Contract Procedure Rules be issued to each supplier invited to provide quotations or to submit tenders at the same time. Any supplemental information must be given on the same basis.
- 5.13 Corporate Directors shall ensure that TUPE issues are considered when any employee either of the City Council or of an incumbent provider of work or services may be affected by any transfer arrangement and obtain advice from a Legal Services Manager before proceeding with invitations to suppliers to provide quotations or to submit tenders.
- 6 **This paragraph relates to tendering procedures for schemes in respect of which the City Council's e-tendering system is not used as expressly agreed by the Senior Procurement Manager involving construction and engineering related work or schemes estimated to have a value over the whole life of the scheme exceeding £50,000 for work, goods, materials and services, provided there is no conflict with the requirements of the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them**
- 6.1 Corporate Directors shall ensure that all suppliers invited to submit a tender (regardless of the process being used) confirm receipt of the tender documents, using the City Council's e-tendering system.
  - 6.2 Unless otherwise stipulated in the tender documents, all tenders must be delivered to a Legal Services Manager and in a plain envelope.
  - 6.3 Corporate Directors shall ensure that the tender documents stipulate that all envelopes containing tenders shall be securely sealed and shall bear the word 'TENDER' followed by the name and/or reference of the scheme

to which the tender relates. Also, such envelopes shall not bear any distinguishing mark intended to indicate the identity of the supplier.

- 6.4 Corporate Directors shall ensure that all envelopes containing tenders remain in the custody of the designated officer concerned until the time appointed for their opening.
- 6.5 Corporate Directors shall ensure that the envelopes containing tenders for the same scheme be opened at the same time by the designated officer concerned who shall do so in the presence of another officer or officers approved by the designated officer concerned for that purpose.
- 6.6 Corporate Directors shall ensure that tenders received for whatever reason after the specified time or date or not delivered to the City Council in accordance with the tender instructions will not be considered without the express agreement of the Senior Procurement Manager and a Legal Services Manager.

## **7 Procedures for Quotation and Tender Discussion and/or Clarification**

### **7.1 Pre-Quotation and Pre-Tender Discussion**

7.1.1 Discussion prior to inviting quotations or tenders with potential suppliers may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the City Council, provided there is no conflict with the requirements of the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them. The objective of such discussion is to ensure that an effective invitation is prepared. All potential suppliers must be treated equally within this process.

### **7.2 Post-Quotation and Post-Tender Clarification**

7.2.1 Clarification after receipt of quotations or tenders and before the letting of scheme(s) with those supplier(s) who have submitted such quotations or tenders may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the City Council, provided there is no conflict with the requirements of the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them. The objective of such discussion is to obtain an improvement in content of these quotations or tenders in circumstances which do not put the other supplier(s) at a disadvantage, distort competition or affect adversely trust in the competition process. All potential suppliers must be treated equally within this process.

7.2.2 Where post-quotation or post-tender clarification results in a fundamental change to the specification or the proposed terms and conditions that are to apply, an official order must not be

issued or a formal contract must not be made and quotations or tenders must be re-invited.

### 7.3 **Notification**

7.3.1 Corporate Directors may authorise such discussion and/or clarification within a specific scheme, provided the special circumstances are recorded, including a record of the discussion and/or clarification. Corporate Directors shall notify a Legal Services Manager of the discussion and/or clarification and actions taken, at the earliest opportunity.

## 8 **Acceptance of Quotations and Tenders**

8.1 Whenever the City Council's e-tendering system is not used, Corporate Directors shall ensure that a record of the quotations received be prepared, signed, dated and timed, which record shall include the date and time each quotation is received, together with the main terms of each quotation (e.g. value, price, delivery period, or other significant issues unique to each quotation).

8.2 Whenever the City Council's e-tendering system is not used, Corporate Directors shall ensure that a record of the tenders received is prepared, signed, dated and timed and countersigned by another officer or officers present, which record shall include the date and time each tender is received, together with the main terms of each tender (e.g. value, price, delivery period, or other significant issues unique to each tender).

8.3 Subject to any legal obligations on the City Council, Corporate Directors shall ensure that the confidentiality of quotations and tenders received and the identity of the corresponding supplier is preserved at all times and that information about one supplier's offer shall not be given to another supplier.

8.4 Where a quotation or tender is received from a consortium, which is acting jointly for the purpose of being awarded a scheme, such quotation or tender shall be evaluated in accordance with the requirements of either paragraph 8.5 or paragraph 8.5.1 of these Contract Procedure Rules.

8.4.1 Corporate Directors shall ensure that any quotation or tender of a consortium is not treated as ineligible on the grounds that the consortium has not formed a legal entity for the purposes of providing a quotation or submitting a tender.

8.4.2 Where the quotation or tender received from a consortium is to be accepted, Corporate Directors shall ensure that the proposed terms and conditions that are to apply are referred to a Legal Services Manager for consideration of the City Council's legal liability before proceeding with or entering into an official order or a formal contract. A Legal Services Manager shall decide on

whether to require the consortium to form a legal entity before entering into, or as a term of, the official order or formal contract.

- 8.4.3 The vetting of the consortium shall be in accordance with the requirements of paragraph 4.8.1 of these Contract Procedure Rules, and for schemes involving construction and engineering related work, paragraph 4.8.4 of these Contract Procedure Rules.
- 8.5 Corporate Directors shall ensure that tenders received are evaluated in accordance with the Quotation/Tender Evaluation Model recommended by the Corporate Procurement Unit or set out in the [Corporate Procurement Toolkit](#) where any scheme has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force.
- 8.5.1 Corporate Directors shall ensure that quotations received and tenders received are adequately and appropriately evaluated where any scheme does not have a procurement requirement falling within the EU procurement regime or, if it does, whose value, or (if made up of a series of related schemes) whose aggregate value is not likely to exceed the relevant EU threshold figure for the time being in force and shall adopt the Quotation/Tender Evaluation Model recommended by the Corporate Procurement Unit or set out in the [Corporate Procurement Toolkit](#).
- 8.6 Corporate Directors shall ensure that errors or discrepancies found in quotations or tenders be adequately and appropriately dealt with. Where such error or discrepancy cannot be adequately and appropriately dealt with the matter shall be immediately referred to the Chief Finance Officer for a decision.
- 8.7 Corporate Directors shall ensure that the quotation or tender which secures Best Value for the City Council be accepted, provided that there is no conflict with the Public Contracts Regulations and any re-enactment(s) of them.
- 8.8 Corporate Directors shall ensure that a record is kept of the withdrawal of a quotation or tender by a supplier within a specific scheme together with the circumstances of such withdrawal.
- 8.8.1 Corporate Directors shall ensure that this information is reported to all officers responsible for the selection of suppliers who may be invited to provide quotations or submit tenders for the provision of work, goods, materials or services.
- 8.9 Corporate Directors shall ensure that where the accepted quotation or tender is changed following the rectification of errors or discrepancies

and/or post-quotation/tender clarification, such amendment(s) be initialled by Corporate Directors or authorised signing officer(s).

- 8.10 Corporate Directors shall ensure that suppliers whose quotation or tender for a specific scheme is not accepted be notified and given the names of all suppliers who provided a quotation or submitted a tender, together with the prices, or ranges of prices, so provided or submitted. Such prices, or range of prices, must not be correlated to the names of the suppliers.
- 8.11 Each scheme shall be let on the authority of a Corporate Director, following a decision having been taken on the acceptance of a quotation or tender by an appropriate decision-maker (i.e., for executive business a Corporate Director (or other specifically delegated officer), portfolio holder/Leader or Executive Board) in accordance with the currently prevailing financial limits.
- 8.12 Notwithstanding any current requirements for reporting of decisions, Corporate Directors shall ensure that a quarterly report be forwarded to the Chief Finance Officer which sets out all schemes exceeding £50,000 (also £50,000 for Schools) let under the authority of such Corporate Directors in the preceding quarter. Any special circumstances (e.g. emergency and/or operational action) or items of an exceptional nature must be included in the report.
- 8.13 Corporate Directors shall ensure compliance with the relevant provisions of these Contract Procedure Rules where the accepted quotation or tender incorporates provisional, prime cost or non-defined items or other such similar items.

## 9 **Orders and Contracts**

- 9.1 All schemes must be evidenced by means of an official order or a formal contract. Such official order must be issued or such formal contract must be made to all suppliers for the provision of schemes, before the relevant supply, service or work begins, except in exceptional circumstances as provided for in paragraph 9.2 of these Contract Procedure Rules.
- 9.1.1 Corporate Directors shall ensure that official orders are raised through the City Council's main financial system, except where the City Council's Purchasing Card Scheme has been used in compliance with the requirements of paragraph 4.9 of these Contract Procedure Rules.
- 9.1.2 Corporate Directors shall ensure that official orders are also raised through the City Council's main financial system:
- 9.1.2.1 For call-offs, draw-downs or other similar arrangements, where an official order has already been issued or formal contract has already been made, or where a series of official orders have already been issued or formal contracts have already been made with the same

external organisation, which relate to the same scheme;  
and

9.1.2.2 For budgetary purposes, where a formal contract has already been made. However, such budgetary orders shall not be issued to suppliers, but shall be retained by the relevant City Council department.

## **NOTES**

- A. *The law prevents formal contracts being made between City Council Departments. However, any agreement between City Council Departments relating to a scheme must be evidenced by the issue of an official order.*
- B. *Contracts under seal are made to provide a 12 year period within which action can be taken for breach. Under simple contracts (contracts which are only signed), this period is reduced to 6 years. In the determination of which to choose, risk is a factor in addition to value.*
- C. *The Director Legal and Democratic Services, and Legal Services Managers, have authority to make contracts under seal. Simple contracts may only be made in accordance with paragraph 9 of these Contract Procedure Rules.*
- D. *The Chief Finance Officer may authorise specific exceptions to the requirement that all schemes be evidenced by means of an official order or formal contract. The Chief Finance Officer may only provide such authorisation after consultation with the Director Legal and Democratic Services.*

9.2 In exceptional circumstances, where an official order has been raised electronically, i.e. by telephone, e-mail or fax transmission, Corporate Directors shall ensure that an official confirmatory order be issued through the City Council's main financial system without undue delay. Such official confirmatory order shall be clearly marked "**CONFIRMATION ONLY**".

9.3 Corporate Directors shall ensure that an official order or a formal contract for any individual scheme is not artificially divided into two or more separate official orders or formal contracts with the intention of avoiding the application of these Contract Procedure Rules.

9.4 **Where any scheme has a value of £2,000,000 or more:**

9.4.1 The Director Legal and Democratic Services or a Legal Services Manager must make a formal contract under seal where the value of any scheme is £2,000,000 or more. The affixing of the seal to such contract must be witnessed by hand by the Director Legal and Democratic Services or a Legal Services Manager.

9.4.2 A Legal Services Manager (taking into consideration the risks involved ) may deem a formal contract under seal to be inappropriate in any particular case (except for schemes involving construction and engineering related work), even where the value of the scheme not involving construction and engineering related work is £2,000,000 or more. In this case, the Corporate Director concerned shall ensure that an official order or a simple contract relating to such scheme is made in such terms that have the prior approval of a Legal Services Manager. For the avoidance of doubt, such official order, as well as such simple contract, must be in printed format only and must be signed by hand by at least two signing officers.

**9.5 Where any scheme has a value of less than £2,000,000:**

9.5.1 The Corporate Director concerned must issue an official order or make a simple contract where the value of any scheme is less than £2,000,000. Such official order or such simple contract must be made in such terms that have the prior approval of a Legal Services Manager and be signed by at least one signing officer. For the avoidance of doubt, such simple contract must be in printed format only and must be signed by hand.

9.5.2 A Legal Services Manager (taking into consideration the risks involved) may deem an official order or simple contract inappropriate in any particular case, even where the value of the scheme is less than £2,000,000. In this case, the Corporate Director concerned shall ensure that a formal contract under seal relating to the scheme is made in such terms that have the prior approval of a Legal Services Manager and in accordance with paragraph 9.4 of these Contract Procedure Rules.

9.5.3 Corporate Directors may authorise, in writing, other officers to sign official orders or simple contracts or to authorise such orders or contracts electronically in a main financial system on their behalf at a value agreed with the Chief Finance Officer provided Corporate Directors are satisfied that their officers have received relevant financial training as approved by the Chief Finance Officer (see Financial Regulation D.5) and the relevant form has been completed.

Corporate Directors shall supply the names and signatures of signing officers together with the corresponding signing/authorising limits to the Chief Finance Officer. Corporate Directors shall prepare and keep up-to-date a register of names and signatures of signing officers together with the corresponding signing limits, which shall be made available to the Chief Finance Officer upon request.

9.6

**Corporate Directors shall ensure that:**

- i) no official order be issued or formal contract made for a scheme which will commit the City Council to expenditure unless provision exists to finance that expenditure, except in the event of an emergency;
- ii) no official order be issued or formal contract made for work, goods, materials or services for the private use of any person;
- iii) only official order forms in a format approved by the Chief Finance Officer be used;
- iv) each official order or formal contract indicates clearly the nature and quantity of the work, goods, materials or services, the agreed value or price and provisions for payment, any trade or cash discount or allowance, the time, or times, within which such order or contract is to be performed, together with any reference to a quotation, tender or other arrangement;
- v) each official order or supplier's form of order used to call-off, draw-down or make other similar arrangements where a formal contract in respect of such requirements is already made (whether such contract be under seal or a simple contract) contains full details of the contract in question, including as a minimum: the date of the contract, the names of the parties to it and a description of the work, goods, materials or services (as the case may be) which form the subject-matter of the contract. Each such order must also contain the following text (or such other similar text as a Legal Services Manager may decide):

“The terms and conditions on the reverse side of this order do not apply. The terms and conditions of the contract mentioned in this order shall apply to the subject-matter of this order which is therefore issued on this understanding. No change to this understanding shall be permitted without the express consent in writing of an authorised officer of the Council.”;

- vi) each official order or formal contract contains adequate and appropriate (and in addition, the applicable requirements of paragraphs 5.11.1 to 5.11.13 inclusive of these Contract Procedure Rules):
  - price adjustment provisions;
  - [anti-collusion provisions](#);
  - [anti-corruption provisions](#); and
  - [anti-fraud provisions](#);

- vii) each official order or formal contract contains the following clause (or such other similar clause as a Legal Services Manager may decide):

*“The City Council shall be entitled to immediately cancel this contract and to recover from the supplier all costs and losses resulting from such cancellation, if the supplier, or any person employed by, or acting on behalf of the supplier (whether with or without the knowledge of the supplier), shall:*

*(a) 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 refrained from doing any action in relation to the obtaining the execution of this contract, or any other contract with the City Council; or*

*(b) for showing, or forbearing to show, favour or disfavour to any person in relation to this contract, or any other contract with the City Council; or*

*(c) has been convicted of any offence under the Bribery Act 2010; or*

*(d) shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972.*

*For the avoidance of doubt, the events under sub-clauses (c) and (d) above shall apply to this contract, or any other contract with the City Council or with any other party, or in respect of any relevant function or activity, as the case may be.”;*

- viii) where applicable, and with the advice of a Legal Services Manager, each official order or formal contract for schemes exceeding £10,000 in value contain provisions for (and in addition to the other requirements of this paragraph 9.6 of these Contract Procedure Rules):

- the cancellation of such official order or formal contract;
- the making of retentions; and
- the deduction of liquidated and ascertained damages in the event of the supplier’s non-compliance by the due or any extended completion date for a scheme;

Where the City Council has a right to liquidated and ascertained damages, such right must be enforced by deductions from monies owing to the supplier.

Any deduction of liquidated and ascertained damages shall be made in accordance with a certificate or instruction issued by Corporate Directors or authorised issuing officers;

- ix) the proposed terms and conditions that are to apply to each official order or formal contract are adequate and appropriate and where necessary, be referred to a Legal Services Manager for consideration of the City Council's legal liability before proceeding with or entering into such official order or formal contract;
- x) where the terms of any official order or a formal contract are changed, such amendment(s) be initialled by Corporate Directors or authorised signing officers. In addition, the copy of an official order so changed and held by the issuing City Council department, be amended accordingly;
- xi) as soon as possible after any official order has been made, a register be kept of such orders made; and
- xii) a scanned copy of every executed formal contract is sent to the Senior Procurement Manager for storing on the City Council's e-tendering system, together with an electronic record of the names of the City Council and supplier contacts relevant to each such contract.

9.7 A Legal Services Manager shall ensure that as soon as possible after any formal contract has been made, the Chief Finance Officer is notified and a register be kept of such contracts made.

9.8 An official order or formal contract relating to any scheme may be extended to include further requirements relating to the scope of that scheme provided in doing so, there is no conflict with the requirements of the [Public Contracts Regulations 2006](#) and any re-enactment(s) of them, Best Value continues to be secured for the City Council and if at the time such requirements are intended to be supplied, all of the following criteria are satisfied:

9.8.1 the further requirements are of a similar description to that in the scope of the original scheme;

9.8.2 the extension is the subject of approval by the relevant Portfolio Holder either because:

9.8.2.1 the value of the original scheme was below the financial limit for Portfolio Holder approval under the Financial Regulations but when added to the value of the further requirements the total value exceeds such financial limit current at the time when such further requirements are intended to be supplied; or

9.8.2.2 the original scheme was the subject of approval by the relevant Portfolio Holder but the value of the further requirements increases the total value and requires

Portfolio Holder approval as a check on financial commitment;

- 9.8.3 on the date that the extension is granted, not more than 12 months have elapsed since the date of the original official order or formal contract;
  - 9.8.4 the original scheme has not been extended in the same way before;
  - 9.8.5 provision exists to finance the expenditure for the further requirements;
  - 9.8.6 Corporate Directors inform the Chief Finance Officer of the circumstances; and
  - 9.8.7 the City Council can, lawfully, grant such an extension.
- 9.9 Corporate Directors shall ensure that any contingency allowance incorporated into an official order or formal contract does not exceed 10% of the estimated cost of a scheme.
- 9.10 Corporate Directors shall ensure that variations to the scope of construction and engineering related work provided for by an official order or formal contract be authorised in accordance with the terms of such official order or formal contract, provided provision exists to finance that expenditure, except in the event of an emergency. Such authorisation shall be given in writing and shall state the agreed price of each variation or the agreed basis on which the cost of such variation is to be calculated. In urgent cases, verbal authorisation(s) may be given, but this must be confirmed in writing within 7 days, or in accordance with the appropriate term(s) of the official order or formal contract.
- 9.11 **Provision of Work, Goods, Materials or Services by the City Council to Other Organisations**
- 9.11.1 A Legal Services Manager must be consulted where it is contemplated that any work, goods, materials or services will be provided to organisations other than the City Council whether on such organisation's terms and conditions or those of the City Council.
- 10 **Supplier Performance**
- 10.1 Corporate Directors shall ensure that each official order or formal contract for work, goods, materials or services contains adequate and appropriate provisions for supervising and monitoring supplier performance including the quality and standard of such work, goods, materials or services.
- 10.2 During the performance of an official order or formal contract for work, goods, materials or services, Corporate Directors shall ensure that supplier

performance, compliance with specification, expenditure, progress, risk and user satisfaction are monitored and also, where necessary, ensure that adequate and appropriate actions are taken to rectify and overcome any short-comings.

- 10.3 Corporate Directors shall ensure that claims received from suppliers of work, goods, materials or services in respect of matters not clearly in accordance with the terms of the official order or formal contract, or from other external organisations, be referred to a Legal Services Manager for consideration of the City Council's legal liability as soon as they are notified to the City Council.
- 10.4 Corporate Directors shall ensure that claims made against suppliers of work, goods, materials or services or other external organisations be referred to a Legal Services Manager for consideration of the City Council's legal liability as soon as they become reasonably apparent.
- 10.5 Corporate Directors shall ensure that where suppliers are required to provide guarantees then such guarantees are adequate and appropriate and underwritten by an insurance company or similar financial institution.

## 11 **Payments**

- 11.1 Corporate Directors shall ensure that payments to suppliers for work, goods, materials or services are certified and made in accordance with:
  - 11.1.1 The appropriate term(s) of the official order or formal contract; and
  - 11.1.2 Corporate Financial Procedures D.60 and D.67.

## 12 **Performance Security Arrangements**

- 12.1 Corporate Directors shall ensure that procurement exercises allow for the obtaining of security for the due performance of all schemes (whether they be schemes involving goods, materials or services or involving construction and engineering related work) between the City Council and any external organisation where the value of such scheme is estimated to be £2,000,000 or more. Such security may be by way of performance bonding, parent company/third party guarantees, deposit of money as security or other means considered appropriate by a Legal Services Manager. The Legal Services Manager may decide that such security is not required for the procurement, in which case the following requirements shall not apply.
- 12.2 Each external organisation invited to submit a tender in respect of a scheme having a value estimated to be £2,000,000 or more must be required to make its own security arrangements and allow for the cost of such provision in its tender. Corporate Directors shall ensure that:

- 12.2.1 the need for such allowance is made clear in the tender documents;
  - 12.2.2 in conjunction with a Legal Services Manager, that the terms of such security arrangements are adequate and appropriate; and
  - 12.2.3 the scheme must not commence until a decision has been made by a Legal Services Manager as to whether such security arrangements should be put into effect.
- 12.3 For the purpose of this Contract Procedure Rule 12, the estimated value of a scheme shall be the higher value of either:
- 12.3.1 the value of any official order to be issued to or formal contract to be made with the external organisation; or
  - 12.3.2 the value of a series of official orders to be issued to or formal contracts to be made with the same external organisation where such official orders or formal contracts relate to the same scheme; or
  - 12.3.3 the aggregate value of call-offs, draw-downs or other similar arrangements to be made against:
    - 12.3.3.1 any official order to be issued to or formal contract to be made with the external organisation; or
    - 12.3.3.2 a series of official orders to be issued to or formal contracts to be made with the same external organisation where such official orders or formal contracts relate to the same scheme.
- 12.4 Nothing in these Contract Procedure Rules shall prevent security arrangements in accordance with this Contract Procedure Rule 12 being put in place where the value of a scheme is estimated to be under £2,000,000 and the Corporate Director in consultation with a Legal Services Manager determines that the subject-matter of such scheme justifies the need for such security arrangements.

### 13 **Insurances**

- 13.1 Corporate Directors shall ensure that there is adequate and appropriate insurance cover in force during the continuance of a scheme for both the City Council and its suppliers in conjunction with the City Council's insurance officers.

### 14 **Consultants**

- 14.1 Where a supplier is providing consultancy services to the City Council (e.g. professional, technical, IT and managerial), Corporate Directors shall

ensure that the relevant provisions of these Contract Procedure Rules are followed and included in the terms of such supplier's appointment.

14.2 Corporate Directors shall ensure that the taxation procedures set out within CFP D.115 – D.128 are followed in the employment of consultants and a [Use of Consultants Approval Form](#) is completed.

14.3 Corporate Directors shall ensure compliance with the requirements of the [Audit Commission's Checklist](#) for commissioning and managing consultants the principles of which have been adopted by the City Council.

## 15 **Records**

15.1 Corporate Directors shall ensure that the records required by these Contract Procedure Rules are kept and securely retained.

15.2 For the purpose of these Contract Procedure Rules, Corporate Directors shall ensure that the relevant documentation set-out in the City Council's [Retention and Disposal Schedule](#) is securely kept and retained for at least the periods stated in such schedule.

## 16 **Audit Examination**

16.1 The authority of the City Council's Internal Audit is outlined in the City Council's Financial Regulation C.9 and further detail is outlined in CFP C.24 – C.35.

16.1.1 Before the final payment is certified in respect of any scheme for construction and engineering related work, such scheme and all documentation associated with it may be examined by the City Council's Internal Audit. All such documentation shall be provided to the City Council's Internal Audit within the time-scale for the ascertainment of the final payment set out in the contractual provisions relating to an official order or formal contract in respect of any scheme for construction and engineering related work.

16.1.2 Corporate Directors shall ensure that a copy of the final payment certificate in respect of any scheme for construction and engineering related work is provided to the City Council's Internal Audit at the time it is issued.

16.1.3 The City Council's Internal Audit may, at any time, examine any scheme and all associated documentation for goods, materials or services.

16.1.4 Where applicable, Corporate Directors shall ensure that each supplier invited to provide a quotation or submit a tender for any scheme be notified at quotation or tender preparation stage that such scheme and all documentation associated with it may be examined by the City Council's Internal Audit.