

Financial Regulations

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FOREWORD

Part 4 of the Constitution includes the Financial Regulations and the associated Financial Procedure Rules. These are based on the CIPFA guide.

These Regulations and Rules apply to every Member and Officer of the Authority and anyone acting on its behalf. Their aim is to provide clarity about the financial accountabilities of Committees, Sub Committees and Joint Committees, the Head of Paid Service, the Monitoring Officer, the Director of Corporate Services and other Chief Officers (as defined in Article 11 (paragraph 11.01(b) of this Constitution) and to ensure that the business of the Council is conducted efficiently.

It is a guide for Members and Officers for use before taking decisions about assets for which they are responsible. In particular that they may ensure that the use of these assets is legal, properly authorised, provides value for money and achieves best value.

In accordance with the provisions of Article 4, paragraph 4.02 (2) of this Constitution these Financial Regulations have been approved by Full Council and, as a consequence, Full Council is responsible for subsequent changes. For clarity any major amendments to the Financial Procedure Rules will require approval of the Finance and Management Committee.

FINANCIAL REGULATIONS

Each of the Financial Regulations relates to particular financial policies. There are 5 Regulations. These are:-

A	Financial Management
B	Financial Planning
C	Risk Management
D	Financial Administration
E	External Arrangements

Part 4 of the Constitution also includes other internal regulatory documents relating to finance and financial probity including the Purchasing Code of Practice, Standard Conditions of Supply and Delivery of Materials and Services, the Code of Practice on the Prudential Approach to Local Authority Commitments and Contracts Procedure Rules.

However it is important to note that these Financial Regulations and Financial Procedure Rules must be read in conjunction with the rest of the Constitution, particularly Part 3, Responsibility for Functions and the Delegation Scheme.

FINANCIAL PROCEDURE RULES

Financial Procedure Rules provide an interpretation of the Financial Regulations and include the following four sections:-

- Context
- Responsibilities of the Director of Corporate Services
- Responsibilities of Chief Officers
- Guidance

References in these Financial Procedure Rules to Chief Officers includes other Officers where decisions have been delegated or devolved to them.

REVIEW AND TRAINING

The Director of Corporate Services is responsible for:-

- maintaining a continuous review of both the Financial Regulations and the Financial Procedure Rules and submitting any additions or changes necessary to the Full Council for approval;
- reporting, where appropriate, breaches of the Financial Procedure Rules to Full Council;
- issuing advice and guidance on these Financial Procedure Rules to Members, Officers and others acting on behalf of the Authority.

Chief Officers are responsible for:-

- ensuring that all staff in their departments are aware of the existence and content of these Financial Procedure Rules and the other documents in Part 4 of the Constitution.

A: Financial Management

INTRODUCTION

1. Financial management covers all financial accountabilities in relation to the running of the Council, including the Budget and Policy Framework.

FULL COUNCIL

2. Full Council is responsible for adopting the Constitution and Members' Code of Conduct and for approving the Budget and Policy Framework within which the Policy Committees operate. It is also responsible for approving and monitoring compliance with the Authority's overall framework of accountability and control and for agreeing procedures for carrying forward under- and overspending on budget headings.
3. Decisions can be delegated to a Committee, Sub-Committee, a Joint Committee or an Officer.

COMMITTEES

FINANCE AND MANAGEMENT COMMITTEE

4. The Finance and Management Committee is responsible for in-year financial monitoring of all Committees and departments to ensure they remain within budget and act in accordance with these Financial Rules.
5. The Finance and Management Committee is responsible for proposing the Budget and Policy Framework to Full Council.
6. The Finance and Management Committee approves the Annual Statement of Accounts.

7. **ALL POLICY COMMITTEES - FINANCE AND MANAGEMENT/
ENVIRONMENTAL AND DEVELOPMENT SERVICES AND HOUSING
AND COMMUNITY SERVICES**

These are responsible for discharging the Council's functions in accordance with the Budget and Policy Framework.

8. **JOINT COMMITTEES**

The Council can discharge certain of its responsibilities in partnership with other organisations within a Joint Committee. At present Joint Committees have been formed for Bretby Crematorium, Etwall JMC and the PATROL (Parking and Traffic Regulations outside London) Adjudication Joint Committee. The terms of the Joint Committee will specify the extent, if any, to which these Financial Regulations will apply.

9. **OVERVIEW AND SCRUTINY COMMITTEE**

The Overview and Scrutiny Committee is responsible for scrutinising the decisions of Policy Committees before or after they have been implemented. It is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the authority.

10. **STANDARDS COMMITTEE**

The Standards Committee is established by Full Council and is responsible for promoting and maintaining high standards of conduct amongst Councillors. In particular, it is responsible for advising Full Council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the Code.

11. **OTHER REGULATORY COMMITTEES**

The Planning Committee and the Licensing and Appeals Committee exercise regulatory functions under powers delegated by Full Council. They both report to Full Council.

12. **STATUTORY OFFICERS**

For general provisions outlining the management structure and the roles and responsibilities of the Chief Officers and Statutory Officers please refer to Article 11 of Part 2 of the Constitution. Specific financial responsibilities of these Officers are set out below.

13. **HEAD OF PAID SERVICE**

The Head of Paid Service is responsible for the corporate and overall strategic Management of the Authority.

14. **MONITORING OFFICER**

The Monitoring Officer is responsible for:-

- promoting and maintaining high standards of financial conduct as part of his/her general responsibilities;
- advising all Councillors and Officers about who has authority to take a particular decision;
- (together with the Director of Corporate Services) for advising Policy Committees 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.

15. **THE DIRECTOR OF CORPORATE SERVICES**

The Director of Corporate Services 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
- The Accounts and Audit Regulations 2003.

16. The Director of Corporate Services is responsible for:

- the proper administration of the Authority's financial affairs
- 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.
- selecting accounting policies and ensuring that they are applied consistently
- determining the accounting procedures and records for the Authority
- 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).

17. Section 114 of the Local Government Finance Act 1988 requires the Director of Corporate Services to report to Full Council, any Committee or Joint Committee 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.

18. Section 114 of the Local Government Finance Act 1988 also requires:

- the Director of Corporate Services to nominate a properly-qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally. That person is the Finance Services Manager.
- the Council to provide the Director of Corporate Services with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

19. **CHIEF OFFICERS**

Chief Officers are responsible for:

- ensuring that Policy Committees are advised of the financial implications of all proposals and that the financial implications have been agreed by the Director of Corporate Services.

20. It is the responsibility of Chief Officers to consult with the Director of Corporate Services and seek approval on any matter liable to materially affect the Authority's finances, before any commitments are incurred.

21. **OTHER FINANCIAL ACCOUNTABILITIES
VIREMENT**

Any proposal to exercise virement between Services shall require the prior approval of the Director of Corporate Services and any proposal to exercise virement between Policy Committees shall require the approval of the Finance and Management Committee.

22. The transfer of budget provisions will be allowed between all heads within Services, except the following:-

- (a) Employees - transfers to and from this budget head will be allowed with the prior approval of the Director of Corporate Services.
- (b) Income - where income exceeds the budgeted level, the relevant manager may transfer any additional resources to other budget heads subject to the approval of the Director of Corporate Services and to that amount not exceeding £10,000.

Note: Capital charges, Central Establishment Recharges and Central Holding Account Recharges are excluded from any form of virement.

23. All instances of virement together with appropriate explanations must be promptly notified to the Director of Corporate Services.

B: Financial Planning

1. INTRODUCTION

Full Council is responsible for agreeing the Authority's Budget and Policy Framework, which will be proposed by the Finance and Management Committee. In terms of financial planning, the key elements are:

- the Corporate Plan
- the Budget
- the Capital Programme.

2. POLICY FRAMEWORK

The Policy Framework comprises the following statutory plans and strategies:

- Corporate Plan
- Best Value Performance Plan
- Capital Strategy
- Community Strategy
- Crime and Disorder Reduction Strategy
- plans and strategies which together comprise the Development Plan
- plans and strategies which together comprise the Housing Investment Programme

3. Full Council is also responsible for considering reports from any of the Council's Committees and for giving directions where there is a major impact upon the Budget or Policy direction. Full Council is responsible for agreeing variations to the approved Budgets, plans and strategies except those which may be delegated to the relevant Policy Committee or Officer, and are changes:

- which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- necessary to ensure compliance with the law, ministerial direction or government guidance;
- in relation to the Policy Framework in respect of a policy which would normally be agreed annually by Full Council following consultation, but where the existing policy document is silent on the matter under consideration;

4. The Finance and Management Committee is responsible for approving the virement of funds between Policy Committees but otherwise the relevant Policy Committee is responsible for taking in-year decisions on resources and priorities in order to deliver the Budget and Policy Framework within the financial limits set by Full Council.

5. **PREPARATION OF THE CORPORATE PLAN**
The Head of Paid Service is responsible for proposing the Corporate Plan to the Finance and Management Committee for consideration before its submission to Full Council for approval.
6. **PREPARATION OF THE BEST VALUE PERFORMANCE PLAN**
The Deputy Chief Executive is responsible for proposing the Best Value Performance Plan (BVPP) to the Finance and Management Committee for consideration before its submission to Full Council for approval.
7. **BUDGET FORMAT**
The general format of the Budget will be approved by Full Council and proposed by the Finance and Management Committee on the advice of the Director of Corporate Services. The draft Budget should include allocation to different services and projects, proposed taxation levels and contingency funds.
8. **BUDGET PREPARATION**
The Director of Corporate Services is responsible for ensuring that a Revenue Budget is prepared on an annual basis and a medium term financial strategy on a three-yearly basis for consideration by the Finance and Management Committee, before submission to Full Council. Full Council may amend the Budget or ask the Finance and Management Committee to reconsider it before approving it.
9. The Director of Corporate Services is responsible for issuing guidance on the general content of the Budget.
10. It is the responsibility of Chief Officers to ensure that budget estimates reflecting agreed service plans are submitted to the Finance and Management Committee and that these estimates are prepared in line with guidance issued by the Finance and Management Committee.
11. **BUDGET MONITORING AND CONTROL**
The Director of Corporate Services is responsible for providing appropriate financial information to enable Budgets to be monitored effectively. He or she must monitor and control expenditure against Budget allocations and report, on a regular basis, to Finance and Management Committee on the overall position.
12. It is the responsibility of Chief Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Director of Corporate Services. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their Budget allocation and alert the Director of Corporate Services to any problems.

13. **RESOURCE ALLOCATION**

The Director of Corporate Services is responsible for developing and maintaining a resource allocation process that ensures that resources are allocated according to corporate and service priorities as set out in Corporate and Service Plans.

14. **PREPARATION OF THE CAPITAL PROGRAMME**

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

15. **GUIDELINES**

Guidelines on Budget preparation are issued to Members and Chief Officers by the Director of Corporate Services. The guidelines will take account of:

- legal requirements
- medium-term planning prospects
- the Corporate Plan
- available resources
- spending pressures
- best value and other relevant government guidelines
- other internal policy documents
- cross-cutting issues (where relevant).

16. **MAINTENANCE OF RESERVES**

It is the responsibility of the Director of Corporate Services to advise Finance and Management Committee and Full Council on prudent levels of reserves for the Authority.

C: Risk Management

1. INTRODUCTION

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.

2. RISK MANAGEMENT

The Finance and Management Committee is responsible for approving the Authority's Risk Management Policy Statement and Strategy and for reviewing the effectiveness of risk management. The Director of Corporate Services is responsible for ensuring that proper insurance exists where appropriate.

3. The Director of Corporate Services is also responsible for preparing the Authority's Risk Management Policy Statement, for promoting it throughout the Authority and for advising the executive on proper insurance cover where appropriate.

4. INTERNAL CONTROL

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.

5. The Director of Corporate Services 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.

6. It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

7. AUDIT REQUIREMENTS

The Accounts and Audit Regulations 2003 issued by the Secretary of State for the Environment require every Local Authority to maintain an adequate and effective Internal Audit.

8. 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.
9. The Authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.
10. **PREVENTING FRAUD AND CORRUPTION**
The Director of Corporate Services is responsible for the development and maintenance of an Anti-Fraud and Anti-Corruption Policy.
11. **ASSETS**
Chief Officers 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.
12. **TREASURY MANAGEMENT**
The Authority has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
13. 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 Full Council by the Finance and Management Committee. The Director of Corporate Services has delegated responsibility for implementing and monitoring the statement.
14. All money in the hands of the Authority is controlled by the Director of Corporate Services.
15. The Director of Corporate Services is responsible for reporting to the Finance and Management Committee a proposed Treasury Management Strategy for the coming financial year at, or before, the start of each financial year.
16. All Committee decisions on borrowing, investment or financing shall be delegated to the Director of Corporate Services, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.

17. The Director of Corporate Services is responsible for reporting to the Finance and Management Committee, on not less than two occasions in each financial year, on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an Annual Report on treasury management for presentation by 30 September of the succeeding financial year.
18. **STAFFING**
Full Council is responsible for determining how Officer support within the Authority will be organised.
19. The Head of Paid Service is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of evaluation or other agreed system(s) for determining the remuneration of a job.
20. Chief Officers are responsible for controlling total staff numbers by:
 - advising the Finance and Management Committee 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.

D: Financial Administration

1. INTRODUCTION

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

2. GENERAL

The Director of Corporate Services is responsible for the operation of the Authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Chief Officers to the existing financial systems or the establishment of new systems must be approved by the Director of Corporate Services. However, Chief Officers are responsible for the proper operation of financial processes in their own departments.

3. Any changes to agreed procedures by Chief Officers to meet their own specific service needs should be agreed with the Director of Corporate Services.

4. Chief Officers should ensure that their staff receive relevant financial training that has been approved by the Director of Corporate Services.

5. Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with the Data Protection Act 1998. Chief Officers must ensure that Officers are aware of their responsibilities under the Freedom of Information Act 2000.

6. INCOME AND EXPENDITURE

It is the responsibility of Chief Officers to ensure that a proper Scheme of Delegation has been established within their area and is operating effectively. The Scheme of Delegation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Policy Committees, in respect of payments, income collection and placing orders, together with the limits of their authority. The Finance and Management Committee is responsible for approving procedures for the writing-off of debts as part of the overall control framework of accountability and control.

7. PAYMENTS TO EMPLOYEES AND MEMBERS

The Director of Corporate Services is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members.

8. TAXATION

The Director of Corporate Services is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Authority.

9. The Director of Corporate Services is responsible for maintaining the Authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
10. **TRADING ACCOUNTS**
It is the responsibility of the Director of Corporate Services to advise on the establishment and operation of trading accounts.

E: External Arrangements

INTRODUCTION

1. The Local Authority 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 or environmental well-being of its area, through the development of a Community Strategy and Local Strategic Partnership.

PARTNERSHIPS

2. The Policy Committees are responsible for approving delegations including frameworks for partnerships. They are also the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
3. The Policy Committees can delegate functions – including those relating to partnerships – to Officers. These are set out in the Scheme of Delegation – Part 3 of this Constitution. Where functions are delegated, the Policy Committees remain accountable for them to Full Council.
4. The Head of Paid Service or his/her nominated representative represents the Authority on partnership and external bodies, in accordance with the Scheme of Delegation.
5. 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 Authority.
6. The Director of Corporate Services 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.
7. Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

EXTERNAL FUNDING

8. The Director of Corporate Services is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Authority's accounts. He/she is also responsible for setting out clear guidance for Chief Officers on responsible bidding for external funds to ensure that Council resources are not over-committed.

WORK FOR THIRD PARTIES

9. The Finance and Management Committee is responsible for approving the contractual arrangements for any work for third parties or external bodies.