

BABERGH DISTRICT COUNCIL

From: Head of Corporate Organisation	Report Number: P28
To: Council	Date of meeting: 24 June 2014

RECOMMENDATIONS ON CONSTITUTIONAL CHANGE

1. Purpose of Report

- 1.1 To consider the report of the Joint Constitution Working Group (JCWG) on a number of the outstanding matters referred to in Paper N123 considered at Council in March 2014. A report is also being submitted to Mid Suffolk District Council meeting on 26 June 2014.
- 1.2 To align the write-off procedures for Shared Revenues Partnership (SRP) debts with those agreed by Mid Suffolk District Council in February 2014 by delegating write-off powers to authorised SRP officers in consultation with the Joint Committee, and within limits determined by that Committee.

2. Recommendations

- 2.1 That Council Procedure Rule (CPR) 28.2 whereby any motion to add to, vary or revoke the CPRs shall stand adjourned without discussion to the next meeting be suspended for the duration of the meeting in accordance with CPR 28.1. (See paragraph 8.6).
- 2.2 That the following documents, replacing those existing, be adopted with immediate effect, and form part of the Council's Constitution:-
 - Appendix A – Budget and Policy Framework
 - Appendix B – Financial Regulations (see also recommendation 2.7 below).
 - Appendix C – Contract Standing Orders
 - Appendix D – Whistleblowing Policy
 - Appendix E – Code of Conduct for Employees
- 2.3 That the wording on how responses to consultation are undertaken be amended to that shown in Appendix F attached.
- 2.4 That the following protocol for Members attending / speaking at a Committee be adopted with immediate effect:-

A Councillor not serving on a particular Committee may request permission from the Chairman to attend and speak in respect of a matter to be considered at the meeting. At the meeting of the Committee the Councillor shall have the opportunity to speak on the relevant matter, but may not put any motions or amendments, nor vote on the matter.

- 2.5 That Council Procedure Rule 14 relating to Questions by the Public be extended to allow questions to be asked at Strategy, Regulatory, Joint Audit and Standards and Joint Scrutiny (and the individual Audit and Scrutiny) Committees.
- 2.6 That it be noted that the Planning Protocol and Procedures document will be submitted for consideration at the July meeting.
- 2.7 That the process of debt write-off related to the functions of the Shared Revenues Partnership (SRP) be delegated to authorised SRP officers in consultation with the SRP Committee, within limits as agreed by that Committee, and that this provision be incorporated in the Council's Financial Regulations and constitution as approved under recommendation 2.2 above (Appendix B refers).
- 2.8 That the Monitoring Officer be authorised (a) to make any typographical and / or other minor changes together with any other consequential changes to the documents referred to above, and (b) as a result of the Council's decisions at this meeting, to make any further consequential and other minor amendments to those sections of the Constitution approved by the Council on 25 March 2014.

3. Financial Implications

- 3.1 None

4. Risk Management

- 4.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. SIT1.

5. Consultations

- 5.1 The original review was part of a widespread Member and officer consultation on the proposals. Members of the JCWG have continued with their work and specific officers have been consulted in their areas of expertise.

6. Equality Analysis

- 6.1 There are no equality issues.

7. Shared Service / Partnership Implications

- 7.1 The JCWG has been involved in discussing the new Constitution and has worked on the basis that the Constitution, procedures etc should be aligned as far as possible.

8. Key Information

- 8.1 The Council meeting on 24 March 2014 agreed the majority of the new Constitution (Paper N123 refers) but noted that further work would be undertaken on the Budget and Policy Framework, Financial Regulations, Contract Procedure Rules and the Planning Protocol.

8.2 Members of JCWG are:-

BDC	MSDC
Tony Bavington	Rachel Eburne
Richard Cave	Wendy Marchant
Kathy Pollard	Sara Michell
Rex Thake	John Whitehead

The Group met again on 4 June to discuss the matters referred to in Paragraph 8.1 and recommend adoption of the new versions contained in the appendices attached. This also includes a revised Whistleblowing Policy from that previously submitted to the March meeting.

8.3 Key points relating to recommendations 2.2, 2.7 and appendices A to D are set out below:

- Simplify, streamline and align the current content – to reflect changes necessitated by organisational and operational changes that have arisen e.g. reference to Corporate Managers
- Unnecessary detail removed with the focus on key corporate governance matters (NB: the detailed operational arrangements to be covered in guidance/procedure manuals issued to officers at the same time as Members approve this paper)
- References to delegations e.g. to CSD (for Mid Suffolk) removed
- Risk and fraud aspects aligned.

8.4 In relation to debt write offs, the proposals ensure there is a clear and consistent approach to this in the constitution of both Councils as follows:

- For business rates, council tax and housing benefit overpayment recovery, delegating write-off powers to authorised SRP officers in consultation with the Joint Committee, and within limits determined by that Committee (this was previously approved by Mid Suffolk)
- For other write offs, Strategy and Executive Committees to approve any over £10,000 (agreed by both Councils in the revised Constitution adopted in March 2014).

8.5 The only one that has not yet been agreed is the Planning Protocol and Procedures. A discussion took place on this at the 4 June meeting. It was recognised that further work is needed to develop this document and it would need to be shared with Members. This will now be submitted to the July meeting.

8.6 Council Procedure Rule (CPR) 28.2 states that any matters to add to, vary or revoke the CPRs shall stand adjourned without discussion to the next meeting of the Council. It is suggested that this be suspended to enable discussion of the proposed changes to take place at this meeting, and introduced with immediate effect. It will be necessary to approve Recommendation 2.1 after the officer presentation and before the debate commences.

9. Appendices

Title	Location
A Budget and Policy Framework	Attached
B Financial Regulations	Attached
C Contract Standing Orders	Attached
D Whistleblowing Policy	Attached
E Code of conduct for Employees	Attached
F Responses to consultation	Attached

10. Background Documents

None.

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Budget and Policy Framework

1. The framework for decision-making

- 1.1 The Council will be responsible for the adoption of a budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Strategy Committee to implement it.
- 1.2 Decisions by the Strategy Committee and other Committees must be in line with it. The Management Board, Heads of Service and staff with delegated authority will operate within the budget and policy framework and financial regulations and contract standing orders.
- 1.3 Any changes to the budget and policy framework are reserved to the Council.
- 1.4 The process by which the budget and policy framework is undertaken will be determined and kept under review annually.

2. In year changes to the budget and policy framework

- 2.1 No changes to any policy and strategy which make up the policy framework may be made by Strategy Committee or officer with delegated authority except changes necessary to ensure compliance with the law, ministerial direction or government guidance;

3. Budget virement and carry forwards

- 3.1 These are governed by financial regulations and the detailed financial procedures issued by the CFO.
- 3.2 Any budget virement and carry forwards exceeding £25,000 that affects the level of service delivery requires the approval of the Strategy Committee.

FINANCIAL REGULATIONS AND PROCEDURES

1. Financial Regulations

- 1.1 The following financial regulations take account of CIPFA guidance with amendments to the Council's local arrangements and requirements:
- 1.2 They ensure that the Council has sound financial management policies in place and that they are strictly adhered to, with financial procedures and additional guidance issued by officers to support them.
- 1.3 The regulations also provide clarity about the financial responsibilities and accountabilities of, Members, the Chief Executive, the Monitoring Officer, the Chief Financial Officer (CFO), other officers. Each regulation sets out the key underlying principles in relation to these.
- 1.5 In addition, they provide the framework for managing the Council's financial affairs. They apply to every Member and officer of the Authority and anyone acting on its behalf.
- 1.6 All Members and officers 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, is properly authorised, provides value for money and achieves best value.
- 1.7 The CFO is responsible for reviewing these financial regulations and submitting any additions or changes to Members for approval. The CFO is also responsible for reporting, where appropriate, breaches of the Regulations to the Council and/or to the Executive Committee.
- 1.8 The CFO is also responsible for providing advice to underpin the financial regulations that Members, officers and others acting on behalf of the authority are required to follow
- 1.9 Heads of Service are responsible for ensuring that all staff in their service are aware of the existence and content of the authority's financial regulations and associated procedures/guidance that is issued and that they comply with them.
- 1.10 There are five financial regulations which cover:
 - A : Financial Management
 - B : Financial Planning
 - C : Risk Management and Control of Resources
 - D : Systems and Procedures
 - E : External Arrangements
- 1.11 These Regulations (and associated procedures/guidance) are to be read in conjunction with the Constitution and Scheme of Delegation and the CFO shall determine any matter on which conflict may arise.
- 1.12 Failure to observe these Regulations may be classified as misconduct justifying disciplinary action.

2. Financial Procedures

The following matters, relating to the operational detail, are covered in financial procedures guidance issued to officers by the Chief Financial Officer (Section 151 Officer):

- Banking arrangements and Imprest Accounts (petty cash)
- Income collection and raising debts
- Ordering goods and services and paying invoices
- Procurement Cards
- Assets and Security
- Salaries, Wages and Pensions
- Insurances
- Budget virements (transfers) and carry forwards.

NOTE

The term “Chief Financial Officer (CFO)” refers to the post holder who, under section 151 of the Local Government Act 1972, is nominated by the Council as being responsible for its financial affairs.

FINANCIAL REGULATIONS

A: FINANCIAL MANAGEMENT

INTRODUCTION

- A.1 Financial management covers all financial responsibilities and accountabilities of the Council, Committees and key officers in relation to the running of the authority, including the policy framework and budget (which is covered elsewhere in the constitution).

THE COUNCIL

- A.2 The Council is responsible for approving the policy framework and budget within which the Strategy operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its Constitution. The Council has a statutory responsibility for setting the Council Tax, determining borrowing limits and considering reports by the CFO (under section 114 of the Local Government Act 1988).
- A.3 Arrangements for delegated powers are set out in the Scheme of Delegation in the Constitution.

STRATEGY COMMITTEE

- A.4 The Strategy Committee is responsible for proposing the policy framework and budget to the full Council, and for discharging functions in accordance with this.

SCRUTINY COMMITTEES

- A.5 These are responsible for scrutinising Strategy Committee decisions before or after they have been implemented and for holding the Executive to account. Scrutiny Committees are also responsible for reviewing the general policy and service delivery of the authority.

AUDIT AND STANDARDS COMMITTEES

- A.6 These are responsible for monitoring financial arrangements and the Treasury Management Strategy, consider the effectiveness of risk management and fraud prevention arrangements and receiving external and internal audit reports.

CHIEF FINANCIAL OFFICER

- A.7 The CFO is responsible for advising the Strategy Committee and the 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 or spending not provided for in the approved budget
- committing expenditure in future years to above the budget level
- budget transfers above virement limits
- causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase more than the reported amount.

A.8 The CFO has clearly defined 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.
- Local Government Act 2003.

A.9 The CFO 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 and advice
- preparing the revenue budget and capital programme
- treasury management.

A.10 Section 114 of the Local Government Finance Act 1988 requires the CFO to report to the full Council, Strategy 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 Council's accounts.

A.11 Section 114 of the 1988 Act also requires:

- The CFO to ensure cover is arranged in the event of absence or sickness
- The Council to provide the CFO with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

MANAGEMENT BOARD AND HEADS OF SERVICE

A.12 These are responsible for:

- Ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the CFO
- Signing contracts in relation to their specific areas on behalf of the authority, which are not under seal.

A.13 It is the responsibility of Management Board and Heads of Service to consult with the CFO and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

CORPORATE MANAGERS

A.14 Corporate Managers have responsibility for managing and monitoring budgets, under the guidance and direction of Heads of Service.

BUDGET MANAGEMENT, MONITORING AND CONTROL

A.15 The CFO is responsible for putting into place effective procedures for ensuring that guidance and financial information is available to enable budgets to be managed, monitored and controlled effectively. The CFO will report to the Executive Committee on the overall position on a regular basis.

A.16 It is the responsibility of the Head of Service and Corporate Managers to control income and expenditure within their area and to monitor performance, taking account financial information and advice provided. They should take any action necessary to avoid exceeding their budgets and alert the CFO to any problems as soon as possible.

BUDGET VIREMENT (TRANSFERS)

A.17 Details of the arrangements and procedures for virement (transfer) of expenditure or income between budgets and the limits that apply are set out in financial procedures.

A.18 Management Board, Heads of Service and Corporate Managers are responsible for agreeing in-year virements within these limits, in consultation with the CFO where required.

YEAR-END BUDGET CARRY FORWARDS

A.19 Details of the arrangements and procedures for carrying forward budget underspends at the end of each financial year are also set out in financial procedures.

ACCOUNTING POLICIES

- A.20 The CFO is responsible for selecting and reviewing accounting policies and ensuring that they are applied consistently.

ACCOUNTING RECORDS AND RETURNS

- A.21 The CFO is responsible for determining the accounting procedures and records that are required for the Council.

THE ANNUAL STATEMENT OF ACCOUNTS

- A.22 The CFO is responsible for ensuring that these are prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA The Audit Committee is responsible for approving the annual statement of accounts).

B: FINANCIAL PLANNING

INTRODUCTION

B.1 The Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Strategy Committee. In terms of financial planning, the key elements are:

- Strategic Plan and Delivery Plans
- Medium Term Financial Strategy
- Asset Management Plan/Strategies
- Revenue Budget and Capital Programme (including associated Investment Strategies)
- Advice on the robustness of estimates and adequacy of reserves
- Treasury Management Strategy

B.2 The Strategy Committee is 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.

B.3 The Strategy Committee is also responsible for taking in-year decisions on resources and priorities in order to deliver the policy framework and budget within the financial limits set by the Council.

MANAGEMENT BOARD AND HEADS OF SERVICE

B.4 These are responsible for:

- Drawing up the key elements of the Council's policy framework and budget
- Reviewing and proposing resource allocation processes (in conjunction with the CFO) to Members.

CORPORATE MANAGERS

B.5 Corporate Managers contribute towards the financial planning arrangements and ensure that Operational Deliver Teams operate within guidelines that are issued.

BUDGET AND CAPITAL PROGRAMME

FORMAT

B.6 The Strategy Committee, on the advice of the CFO, will approve the general format of the budget. This will include allocation of resources, proposed changes to charges for services and proposed taxation/council house rent levels.

PREPARATION

- B.7 The CFO is responsible for ensuring that a revenue budget and capital programme is prepared on an annual basis and a rolling Medium Term Financial Strategy (MTFS) for consideration by the Strategy Committee before submission to the Council. The MTFS will be reviewed annually.
- B.8 It is the responsibility of Management Board and Heads of Service to ensure that the budget and capital programme reflects agreed objectives and strategic/service priorities and that these are prepared in line with guidance issued by the Strategy Committee and CFO.
- B.9 Heads of Service and Corporate Managers are responsible for ensuring that budgets and capital programme are based upon reliable estimates and are prepared in accordance with guidance issued by the CFO.

RESOURCE ALLOCATION

- B.10 The CFO (in conjunction with Management Board and Heads of Service) is responsible for developing, maintaining and reviewing a resource allocation process that ensures it reflects the policy framework.

GUIDELINES

- B.11 Guidelines on budget and capital programme preparation are issued by the CFO. These take account of:
- legal requirements
 - medium-term financial planning
 - strategic/annual delivery plans
 - forecast available resources
 - spending/cost pressures
 - relevant government guidance
 - Council policies
 - Treasury Management Strategy

MAINTENANCE OF RESERVES

- B.12 It is the responsibility of the CFO to advise the Strategy Committee and/or the full Council on the robustness of estimates and adequacy of reserves.
- B.13 The principles for reserves detailed in the MTFS/Annual Budget will be followed.

C: RISK MANAGEMENT AND CONTROL OF RESOURCES

INTRODUCTION

- C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant business and operational risks to the Council.
- C.2 The Accounts and Audit Regulations 2011 require that the Council's financial management is adequate and effective and that there is a sound system of financial control that facilitates the effective exercise of the Council's functions and that includes risk management arrangements.
- C.3 Management Board, Heads of Service and Corporate Managers are responsible for reviewing the effective management of risks and internal controls and governance, supported by the Corporate Manager – Internal Audit and the s151 Officer.
- C.4 The CFO (*was the Committee*) is responsible for ensuring that proper insurance exists where appropriate.

RISK MANAGEMENT

- C.5 The Council is committed to establishing an effective risk management framework and culture to enable management at all levels to deliver their objectives in the light of those risks.
- C.6 The Corporate Manager – Internal Audit is responsible for preparing the Council's risk management strategy and for promoting it throughout the Council and maintaining and reporting on the Council's Integrated Significant Business Risk Register.
- C.7 The Joint Audit and Standards Committee is responsible for approving the Council's risk management strategy and reviewing and monitoring the arrangements for managing risk.

INTERNAL CONTROL

- C.8 Internal control refers to the systems of control devised by management to help ensure the Council's objectives and strategic/service priorities are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C.9 The systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant best practice. They should also ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other policies that govern their use.

- C.10 It is the responsibility of Heads of Service and Corporate Managers 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 REQUIREMENTS AND INSPECTION

- C.11 The basic duties of the external auditor are governed by Section 5 of the Audit Commission Act 1998. The Accounts and Audit Regulations require every local authority to maintain an adequate and effective internal audit. The CFO is responsible for ensuring that this is achieved.
- C.12 Internal Audit will advise and report to management and the Joint Audit and Standards Committee on whether the Council's governance – appropriate risk management processes, control systems and operational procedures - are in place and operating properly.
- C.13 This scope will extend to systems or services provided wholly by, or in conjunction with other organisations, including partnership arrangements.
- C.14 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies including HM Revenues and Customs, who have statutory rights of access. It is the responsibility of Management Board, Heads of Service and all officers to co-operate and provide such information as required by those bodies.

PREVENTING FRAUD AND CORRUPTION

- C.15 The Corporate Manager – Internal Audit is responsible for:
- the development and maintenance of an Anti-Fraud and Corruption and 'Whistleblowing' Policy and ensuring that Members and staff are aware of their contents.
 - ensuring that there is a pro-active approach to fraud prevention, detection and investigation and promote a council-wide anti-fraud culture across both organisations.
- C.16 All Members and staff are responsible for giving immediate notification to the Corporate Manager – Internal Audit on fraud matters where there are grounds to suggest that fraud or corruption have occurred.

MONEY LAUNDERING

- C.17 The Corporate Manager – Internal Audit for ensuring that proper procedures are in place to combat the possibility of the authority being used for money laundering purposes.

ASSETS

- C.18 Heads of Service and Corporate Managers are responsible for ensuring that records and assets are properly maintained and securely held. They must 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.

STAFFING

- C.19 The Chief Executive is responsible for determining overall staffing establishments and requirements. The Strategy Committee will consider changes to these within the overall policy and budget framework.
- C.20 Management Board are responsible for controlling total staff numbers in conjunction with Heads of Service.
- C.21 The Strategic Director (Corporate) is responsible for ensuring that there is proper use of the job evaluation or other agreed systems for determining the remuneration of a job.
- C.22 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments, grades and rates of pay.

TREASURY MANAGEMENT

- C.23 The Council has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities*, the code includes a "Treasury Management Policy Statement". The CFO is responsible for implementing and monitoring the statement and will advise the Strategy Committee immediately of any significant amendment to the Code and any consequent or necessary amendment to the Treasury Management Policy Statement and/or Treasury Management Strategy.
- C.24 The CFO is responsible for submitting to the Strategy Committee/Council
- a proposed Treasury Management Strategy before the start of each financial year
 - a mid year and annual review of activity compared to the approved strategy by 30 September of the succeeding financial year.
- C.25 The CFO is responsible for reporting to the Strategy Committee any significant variations to the approved strategy during the year.
- C.26 All executive decisions on borrowing, investment or financing shall be delegated to the CFO, who is required to act in accordance with CIPFA's *Code of Practice for Treasury Management in Local Authorities*.

D: SYSTEMS AND PROCEDURES

INTRODUCTION

D.1 Sound financial systems and procedures are essential to an effective framework of accountability and control.

GENERAL

D.2 The CFO issues guidance and requirements in relation to the above. (see also Financial Regulation C: Risk Management and Control of Resources which covers advice and reports by the Corporate Manager – Internal Audit on systems of internal control).

D.3 Management Board, Heads of Service and Corporate Managers have responsibility to ensure adherence to these.

D.4 Any changes made by Heads of Service or Corporate Managers to the existing financial systems or the establishment of new systems must be approved by the CFO. Heads of Service are responsible for the proper operation of financial processes in their own areas.

D.5 Any changes to agreed procedures by Heads of Service or Corporate Managers to meet their own specific service needs are to be agreed with the CFO.

D.6 Heads of Service and Corporate Managers should ensure that staff receive relevant training and guidance.

INCOME AND EXPENDITURE

D.7 Guidance and procedures on the collection of all money due to the Council will be under the supervision of the CFO.

D.8 It is the responsibility of Heads of Service and Corporate Managers to identify staff authorised to act on their behalf in respect of making payments, receiving income and placing orders, together with the limits of their delegated authority.

D.9 The Strategy Committee is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

PAYMENTS

D.10 The CFO is responsible for arrangements relating to all payments (to suppliers, contractors, employees and Members).

TAXATION

- D.11 The CFO is responsible for advising Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- D.12 The CFO 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.

TRADING ACCOUNTS

- D.13 It is the responsibility of the CFO to advise on the establishment and operation of trading accounts.

E: EXTERNAL ARRANGEMENTS

INTRODUCTION

- E.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 and environmental well being of its area.

PARTNERSHIPS

- E.2 The Strategy Committee is responsible for approving delegations, including frameworks for partnerships. The Council will continually look for opportunities to form partnerships with other local public, private, voluntary and community sector organisations to address local needs and priorities.
- E.3 The Executive Committee can delegate functions - including those relating to partnerships - to officers. Where functions are delegated, the Executive Committee remains accountable for them to the full Council.
- E.4 The Chief Executive or other senior officers represent the authority on partnership and external bodies.
- E.5 Heads of Service and Corporate Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- E.6 The CFO ensures that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory.

EXTERNAL FUNDING

- E.7 The CFO is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

CONTRACT STANDING ORDERS

Contents

- 1. Introduction**
- 2. Delegated Authority**
- 3. Personal Interests of Officers and Members**
- 4. Statutory Requirements**
- 5. Transparency and Fairness**
- 6. Management of Records**
- 7. Value for Money and Selection**
- 8. Extension of Contracts**
- 9. Third Parties**
- 10. Purchase Orders**
- 11. Exemptions and Exceptions to the Contract Standing Orders**

1. Introduction

1.1 These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972. The Contract Standing Orders form part of the Council's Constitution. The purpose of these Contract Standing Orders is to provide a framework within which commissioning and purchasing decisions are undertaken to enable the Council to:

- furthers its priorities
- use its resources efficiently
- commission quality goods, services and works
- operate in a fair, open and transparent manner
- safeguard its reputation from the implication of dishonesty or corruption.

1.2 These Contract Standing Orders provide the minimum standards and requirements that must be met on all occasions when the Council enters into an agreement for the supply of goods, services or the execution of works. Further guidance that should be applied to all of the Council's commissioning and procurement is provided in the Council's Commissioning and Procurement Manual.

1.3 These Contract Standing Orders apply to all contracts, leases, concessions and agreements entered into by or on behalf of the Council; except for the specific types of contracts and which are listed below:

- circumstances where purchases are made or services rendered as a consequence of a contract made by another local authority, government department, body or agent the benefits of which the Council obtains as a result of participation in a consortium
- goods purchased by public auction
- circumstances where the Council enters into a contract jointly with one or more other local authorities one of whom is the "lead authority" for that contract
- the lending or borrowing of money
- the appointment of any officer directly employed by the Council
- the sale or purchase of any land or buildings
- the provision of services by legal counsel.
- service level agreements setting out the conditions which the Council will provide funding to particular voluntary sector bodies.

2. Delegated Authority

- 2.1 All commissioning and procurement activity by the Council must be undertaken in compliance with the Council's Scheme of Delegation. Details of the Scheme of Delegation are included in the Council's Commissioning and Procurement Manual.

3. Personal Interests of Officers and Members

- 3.1 Section 117 of the Local Government Act 1972 requires employees to give notice in writing to the Council of any pecuniary interest, direct or indirect, which he/she has in a contract entered into (or to be entered into) by the Council.
- 3.2 Such notification should be given to the Council's Monitoring Officer.

4. Statutory Requirements

- 4.1 All commissioning and procurement activity by the Council must be undertaken in compliance with EC Treat Principles, EU Directives and all relevant UK legislation.
- 4.2 Further guidance on relevant Directives and Statutes is provided in the Commissioning and Procurement Manual.

5. Transparency and Fairness

- 5.1 All procurement and commissioning activity by the Council must be undertaken in an open, fair and transparent manner which provides an equal opportunity for all potential providers.
- 5.2 The total economic opportunity in terms of value available for the whole period of the requirement (excluding VAT) will determine the procurement processes which should be followed. Guidance on the contract value thresholds and procurement processes that should be used is provided in the Council's Commissioning and Procurement Manual.
- 5.3 Requirements should not be broken down into smaller portions (lots) for the purpose of avoiding the impact of the contract value threshold.

- 5.4 A standing list of suppliers may be compiled where the business requirements of the Council require access to a number of suitably qualified suppliers for a specific category, value or quantity of goods, services or the execution of works. Invitations to tender or quotation for these categories will be limited to those suppliers whose names are included on the list compiled and maintained for that purpose.
- 5.5 All suppliers included on a standing list must be given equal opportunities to respond to quotes and tenders.
- 5.6 Standing lists are effective for a limited period and must be renewed on a regular basis in accordance with the guidance and procedures provided in the Commissioning and Procurement Manual.

6. Management of Records

- 6.1 Proper records of all communications, reports, minutes, meetings, quotes, tenders, contract and other relevant documents must be retained securely so as to protect the integrity of the process and managed in accordance with the Council's policy on The Management and Retention of Records.
- 6.2 A record of all Contracts must be entered into the Council's Contract Register.

7. Value for Money and Selection

- 7.1 The selection of offers for goods, services or the execution of works from suppliers should be based upon achieving value for money for the Council, utilising sustainable and ethical sources of supply with minimal impact upon the environment.
- 7.2 Subject to the test of fairness and equality for potential suppliers the requirement to support specific regional economic and social development opportunities may be included.

8. Extension of Contracts

- 8.1 Where the extension of a contract is required to enable the continued provision of goods, services or execution of works; contracts may be extended, subject to adequate budgetary provision:

- by value or period, or any other variation that has been accounted for in the original terms of the contract
- in addition to the terms of the original contract, the contract may be extended by a period of not more than half of the original term
- in addition to the terms of the original contract by not more than 40% of the total value of the original contract
- an exemption or exception these Contract Standing Orders applies.

8.2 Contract extensions must be authorised in accordance with the guidance provided in the Councils' Commissioning and Procurement Manual.

9. Third Parties

9.1 Where third parties, such as consultants or contractors are engaged to commission or procure goods, services or the execution of works, or manage a contract on behalf of the Council these activities must be undertaken in compliance with these Contract Standing Orders and the guidance contained in the Council's Commissioning and Procurement Manual.

9.2 The requirement in 10.1 must be included in the conditions of contract for third parties.

10. Purchase Orders

10.1 With the exception of the requirements included on the Council's Purchase Order Exemption List, an official Purchase Order must be used to undertake all financial commitments on behalf of the Council.

10.2 The Purchase Order Exemption List is contained in the Council's Commissioning and Procurement Manual.

11. Exemptions to the Contract Standing Orders

11.1 Exemptions to these Contract Standing Orders may be made within the relevant law as follows:

- the goods required are available only as proprietary or patented articles from one supplier and there is no reasonable satisfactory alternative
- the goods or services to be supplied consist of a repair to or the supply of parts of existing proprietary machine or plant

- the goods or services to be supplied are required to be the same as those currently in use by the Council for the purpose of standardisation
- emergency action is required, which if not taken would provide an unacceptable impact upon on the delivery of the Councils' services
- the goods or services are supplied at a fixed price or the prices are wholly controlled by trade organisations or Government order and no satisfactory alternative is available
- taking into account the cost of change the Council is unlikely to benefit from improved value for money.

11.4 Exemptions to these Contract Standing Orders must be authorised in accordance with the guidance in the Commissioning and Procurement Manual.

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Whistleblowing Policy

What is Whistleblowing?

Whistleblowing encourages and enables employees to raise serious concerns **within** the Council rather than overlooking a problem or 'blowing the whistle' outside.

Employees are often the first to realise that there is something seriously wrong with the Council. However, they may not express their concerns as they feel that speaking up would be disloyal to their colleagues or to the Council.

Our Commitment

The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

Who does the Policy apply to?

The policy applies to all employees, (including those designated as casual hours, temporary, agency, authorised volunteers or work experience), and those contractors working for the Council on Council Premises, for example, agency staff, builders. It also covers suppliers and those providing services under a contract with the Council in their own premises. The policy also covers Members.

The Aims of the Policy

To encourage you to feel confident in raising concerns and to question and act upon concerns about practice.

To provide avenues for you to raise concerns in confidence and receive feedback on any action taken.

To ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.

To reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure which is in the public interest.

What Types of Concern are Covered?

Conduct which is an offence or a breach of law.

Failure to comply with a legal obligation.

Disclosures related to miscarriages of justice.

Health and safety risks, including risks to the public as well as other employees.

Damage to the environment.

The unauthorised use of public funds.

Possible fraud and corruption.

Sexual, physical or other abuse of clients.

Other unethical conduct.

Actions which are unprofessional, inappropriate or conflict with a general understanding of what is rights and wrong.

NB. Other procedures are available to employees e.g. the Grievance procedure which relates to complaints about your own employment. This policy also does not replace other corporate complaints procedures which are for public use.

Safeguards and Victimisation

The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you provide a service.

The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern which is in the public interest.

Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

This policy encourages you however to put your name to your concern whenever possible. Please note that:

Staff must believe the disclosure of information is in the public interest.

Staff must believe it to be substantially true.

Staff must **not** act maliciously or make false allegations.

Staff must **not** seek any personal gain.

How to Raise a Concern

As a first step, you should normally raise concerns with your immediate supervisor/manager or their superior. This may depend, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved you should approach a more senior level of management within your Directorate.

Concerns can also be made in writing. Correspondence should be sent to the Corporate Manager – Internal Audit at either of the following addresses:

Babergh District Council
Corks Lane
Hadleigh
Ipswich
IP7 6SJ

Mid Suffolk District Council
131 High Street
Needham Market
Ipswich
IP6 8DL

Human Resources
Babergh District Council
Corks Lane
Hadleigh
Ipswich
IP7 6SJ

**BABERGH DISTRICT COUNCIL AND MID SUFFOLK DISTRICT COUNCIL
CODE OF CONDUCT FOR ALL EMPLOYEES**

1. Introduction

- 1.1 The public is entitled to expect the highest standards of conduct from all employees who work in local government.
- 1.2 This Code is based on a model produced by the Local Government Management Board and the Local Authority Associations. The Babergh and Mid Suffolk branch of UNISON and the Mid Suffolk branch of Unite have been consulted on this Code and has given its full support.
- 1.3 Throughout the Council many of the professional groups, and others, will have their own codes of practice which will be complementary to this Code. In addition it may be necessary to introduce special procedures, rules etc for specific matters which will be issued to appropriate employees, as and when necessary.

2. Status of the Code

- 2.1 This Code has been adopted by Babergh District Council and Mid Suffolk District Council. It sets out the minimum standards that must apply. The aim of the Code is to lay down guidelines for employees which will help maintain and improve standards and protect them from misunderstanding or criticism.

3. Interpretation

- 3.1 In this Code unless the context otherwise requires the following expressions have the following meanings:

"Employees" means all persons employed under a contract of employment by Babergh District Council and Mid Suffolk District Council.

"Council" includes both Babergh and Mid Suffolk District Councils

"Councillor" includes both Babergh and Mid Suffolk District councillors.

"Contractor" includes contractors engaged by Babergh or Mid Suffolk District Council or the two councils jointly."

4. Scope of the Code

- 4.1 The Code applies to all employees.
- 4.2 Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. Activities carried out by employees acting on behalf of the Council as members of companies or voluntary organisations will be subject to the minimum standards within this Code.

5. Standards

- 5.1 Local government employees are expected to give the highest possible standard of service to the public, and, where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality.
- 5.2 Employees will be expected to report directly to the Chief Executive, their Director or Head of Services, or in exceptional circumstances through their trade union, and without fear of any recrimination:-
- (a) any deficiency in the standard or provision of any service;
 - (b) any breach of the policies, procedures, standing orders or financial regulations of the Council;
 - (c) any favouritism or discrimination shown to any person;
 - (d) any impropriety or misconduct.
- 5.3 Employees shall immediately bring to the attention of the Director (or in the case of a Director the Chief Executive) if they believe that there is an actual or potential conflict of interest between Babergh District Council and Mid Suffolk District Council or between roles and responsibilities which the Employee undertakes for each Council.

6. Disclosure of information

- 6.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Council may decide to be open about other types of information.

Employees must be aware of which information the Council is and is not open about, and act accordingly.

- 6.2 Employees must not use any information obtained in the course of their employment and which is not available to the general public, for personal gain or benefit, nor should they pass it on to others who might use it in such a way unless there is a legal requirement to do so. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the authority must not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

7. Political neutrality

- 7.1 Employees serve the Council as a whole. It follows that they must serve all councillors and not just those of the controlling group (if there is one), and must ensure that the individual rights of all councillors are respected.
- 7.2 Subject to any rules approved by the Council, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality. An Employee shall, therefore, be entitled to be accompanied by a colleague when advising any political group.

- 7.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
- 7.4 Any Political Assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set out in paragraphs 7.1 to 7.3.

8. Relationships

8.1 Councillors

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and councillors is essential to good local government. However close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and, wherever reasonable and possible, should be avoided.

8.2 The Local Community and Service Users

Employees must always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial delivery of services to all groups and individuals within that community as defined by the policies of the Council.

8.3 Contractors

If there is likely to be a conflict of interest, employees must make known in writing to their Director all relationships of a business or private nature with existing or potential Council contractors known to the employee. Orders and contracts must be awarded on merit, by fair competition against other tenders, where appropriate, and no special favour must be shown to potential contractors (particularly those run by, for example, friends, partners or relatives) in the tendering process. No part of the community should be improperly or illegally discriminated for or against.

- 8.4 Employees who, in the course of their job, engage or supervise contractors or have any other official relationship with contractors and have previously had, or currently have, a relationship in a private or domestic capacity with contractors (or their senior staff), must declare that relationship in writing to their Director.

9. Appointments and other employment matters

- 9.1 Employees involved in appointments must ensure that these are made on the basis of merit. There is a strong risk of illegality if an employee makes an appointment based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees must not be involved in appointments where they are related to an applicant, or have a close personal relationship outside work with him/her.

- 9.2 Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments of any employee who is a relative, partner, etc.

10. Outside Commitments

- 10.1 The NJC Scheme of Conditions of Service for APT&C staff states at Section 7, paragraph 70(b) on Official Conduct:

"An officer's off-duty hours are his personal concern but he should not subordinate his duty to his private interests to put himself in a position where his duty and his private interests conflict. The employing authority should not attempt to preclude officers from undertaking additional employment, but any such employment must not, in the view of the authority, conflict with or react detrimentally to the authority's interests or in any way weaken public confidence in the conduct of the authority's business."

(This quotation applies equally to women).

The national conditions of service for chief officers and those for chief executives also mirror the above points.

- 10.2 All employees at Mid Suffolk District Council and some employees i.e. those on grades above Performance Grade 10 or APT&C Scale 6 at Babergh District Council have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with either Council's interests, or, where appropriate, has not been the subject of written consent.
- 10.3 The Council will not consent to employees engaging in any other business which would result in plans or drawings prepared by them outside their official duties with the Council, being presented with applications for determination by the Council or its Directors.
- 10.4 Employees must adhere to any Council rules on the ownership of intellectual property created during their employment - this could include patents, copyrights, trademarks and other intellectual property.

11. Personal interests

- 11.1 Employees must declare in writing to their Director any financial or non-financial interests which could reasonably be considered to conflict with the Council's interests.
- 11.2 Employees must declare in writing to their Director membership of any organisation not open to the public without formal membership, and with commitment of allegiance, and which has secrecy about rules or membership or conduct (eg. the freemasons, some friendly societies etc.).
- 11.3 The Director will treat any such declarations in confidence and will only disclose them in appropriate situations.
- 11.4 For the avoidance of doubt declarations must be made under clause 11.1-11.3 above if the interest conflicts with either or both Babergh or Mid Suffolk District Council's interests.

Note: The Local Government Act 1972 provides that if employees know that a contract in which they have a financial interest is before the Local Authority, they must give notice of that interest to the Local Authority.

12. Equality issues

- 12.1 Employees must ensure that any Council policies relating to equality issues are complied with in addition to the requirements of the law. All members of the community, customers and other employees have a right to be treated with fairness and equity.

13. Separation of Roles During Tendering

- 13.1 Employees involved in the tendering process and dealing with contractors must be clear on the separation of client and contractor roles in the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability, separation of activity as appropriate, and openness.
- 13.2 Employees in contractor or client units must exercise and display fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors.
- 13.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.
- 13.4 Employees contemplating a management buyout, or otherwise considering tendering for Council work, should, as soon as they have formed a definite intent, inform their Director in writing and withdraw from the contract awarding processes.
- 13.5 Employees must ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to a business run by them or a business employing them in a senior or relevant managerial capacity.

Note: Attention is also drawn to the Council's Standing Orders on Contracts and the Financial Regulations.

14. Corruption

- 14.1 It is a serious criminal offence for employees corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person. If a substantiated allegation is made it is for the employees to demonstrate that any such rewards, given or received, have not been corruptly obtained.

15. Use of Financial Resources

- 15.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid any action, which by its nature, could lead to a legal challenge against the Council.

16. Hospitality and Gifts

- 16.1 The NJC Scheme of Conditions of Service for APT&C staff states at paragraph 70(a) on Official Conduct:

"The public is entitled to demand of a local government officer conduct of the highest standard and public confidence in his integrity would be shaken were the least suspicion to arise that he could in any way be influenced by improper motives."

(This quotation applies equally to women).

- 16.2 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community (including the business community). Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. They should be properly authorised and recorded in the Council's Gifts and Hospitality Register.
- 16.3 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 16.4 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- 16.5 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal; such hospitality does not need to be recorded. In receiving such corporate hospitality employees must ensure that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 16.6 Employees should only accept gifts in accordance with the following guidance:
- i. There can be little doubt that the acceptance of gifts by Council employees from persons who have, or may seem to have, dealings with the Council would be viewed with suspicion by the general public and would make the employee concerned and the Council extremely vulnerable to criticism. Therefore an employee should tactfully refuse any personal gift which is offered to him/her or to a member of his/her family by, or indirectly attributable to, any person who has, or may have, dealings of any kind whatsoever with the Council.
 - ii. The only exception to this rule is small gifts; i.e. items of a value up to £10.00. In such cases, however, whilst the gift may be accepted, it must be entered into the Gifts and Hospitality Register.
 - iii. If there is any doubt about whether a gift may be accepted, the gift should be politely and tactfully refused.

- iv. Employees are reminded that, under the provisions of Sections 1 17 of the Local Government Act 1972, Officers employed by a Local Authority are forbidden under the colour of their office and employment to accept any fee or reward other than their proper remuneration and any person who contravenes this provision would be liable on summary conviction to a fine not exceeding £2,500 (currently). It is also an offence under the Bribery Act 2010 to offer, promise or give a financial or other advantage in respect of the award or performance of a contract.
- v. In the event of an employee receiving a gift without warning (this would include bequests under a will for example) which does not fall within the exception mentioned in (ii) above, this should be reported immediately to the Chief Executive who, in consultation with the Chairman of the appropriate Committee, will decide whether the gift should be retained by the employee, returned or forwarded to some charitable or other deserving cause.

17. Sponsorship - Giving and Receiving

- 17.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 17.2 Where the Council wishes to sponsor an event or service, special care must be taken to ensure that if any benefit accrues to employees, partners, spouses or relatives, full disclosure is made under the hospitality procedure above before the venture is pursued. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and conflicts of interest avoided.

Responses to Consultation

The relevant Head of Service shall be authorised to submit responses on consultation on matters within their functions and area of responsibility. If any consultations are deemed by the Strategic Director (Corporate) to be of sufficient significance they will be referred to the relevant Committee.

Matters that are likely to be of sufficient significance are consultation documents on national, regional or local issues which have been or likely to be high profile, complicated and controversial.

Should the deadline for the response not enable the matter to be considered by the Committee then the Strategic Director (Corporate) in consultation with the relevant Head of Service and Committee Chairman be authorised to submit a response, a copy of which will be submitted to the next meeting of that Committee for information.

All consultation responses issued in the name of the District Council must be in accordance with adopted Council policy, as well as any existing national or regional policy.

Members are of course entitled to make separate individual, personal responses to the consultation.