# Financial Regulations

# Section 1 Introduction and Scope

**1.** **Definitions**

1.1. “approved” means either signed in writing or approved electronically by secured means.

1.2. “authorised officer” means an Officer who has had authorisation delegated to them by the S151 Officer, Chief Executive or Director

1.3. “the budget” includes the allocation of financial resources to services and projects

1.4. “budget holder” means the relevant Director, Chief Executive or other Officer authorised by such Director to manage a budget

1.5. The ‘Capital Budget’ is the money available for the Council to spend on improving its assets or other projects that meet the definition of capital

1.6. “Committee” means an ordinary committee of the Council

1.7. “Council” means Hart District Council

1.8. The ‘General Fund’ includes all income and expenditure incurred in the day to day running of the Council.

1.9. The ‘Senior Leadership Team’ includes Chief Executive, Directors and Service Managers.

1.10. “Director” means those officers so described in the Council’s Constitution

1.11. “Portfolio Holder” means an individual member of the Cabinet with delegated responsibility for a portfolio of services.

1.12. ‘relevant Director’ means the Director to whom authority to act has been given by the Council, the Cabinet, a Committee or Sub-Committee whether by express resolution or under the Scheme of Delegation to Officers.

1.13. ‘S151 Officer’ (alternatively known as the Chief Financial Officer or Director of Corporate Services) means a suitably qualified officer appointed under section 151 of the Local Government Act 1972 to administer the Council’s financial affairs. Hereafter referred to as Director of Corporate Services.

1.14. ‘The Statement of Accounts’ summarises the Council’s financial performance during each year end and shows its overall financial performance at the end of that period.

**2.** **Overview**

2.1. The general principle behind these regulations is to ensure that all financial dealings are of the highest standard conducive with being custodians of public resources and assets.

2.2. The Financial Regulations provide the framework for managing the Council’s financial affairs and contribute to good corporate governance, internal control, and the management of risks. In addition, they assist sound administration, reduce the risk of irregularities, and support the delivery of effective, efficient, and economic services.

2.3. These Financial Regulations are made pursuant to Section 151 of Local Government Act 1972, the Accounts and Audit Regulations 2015 (plus amendments) and all other enabling powers.

2.4. The Director of Corporate Services has responsibility for the preparation, review, and amendment of these Financial Regulations. They should be read in conjunction with the other governance rules and procedures contained within the Council’s Constitution.

2.5. These Financial Regulations apply to members, officers, employees, and anyone acting on the Council’s behalf. Where work is carried out in partnership then the regulations of the ‘principal’ authority should be followed, and a common/joint set of regulations noted. Failure to comply may constitute misconduct and lead to formal disciplinary action

**3.** **Scope**

3.1. The Financial Regulations set out the Council’s requirements in respect of:

3.1.1. Financial management roles and responsibilities

3.1.2. Financial planning and budgeting

3.1.3. Budget monitoring and control

3.1.4. Internal control and audit

3.1.5. Financial systems and procedures

3.1.6. Treasury management

3.1.7. External arrangements

3.2. These financial regulations are guided by the CIPFA Financial Management Code which applies a principles-based approach. There are six under-lying principles:

3.2.1. Organisational leadership – demonstrating a clear strategic direction based on a vision in which financial management is embedded into organisational culture.

3.2.2. Accountability – financial management is based on medium-term financial planning, which drives the annual budget process supported by effective risk management, quality supporting data and whole life costs.

3.2.3. Financial management is undertaken with transparency at its core using consistent, meaningful, and understandable data, reported with appropriate frequency and with evidence of periodic officer action and elected member decision making.

3.2.4. Adherence to professional standards is promoted by the Senior Leadership Team and is evidenced.

3.2.5. Sources of assurance are recognised as an effective tool mainstreamed into financial management and include political scrutiny and the results of external audit, internal audit, and inspection.

3.2.6. The long-term sustainability of local services is at the heart of all financial management processes and is evidenced by prudent use of public resources.

3.3. It is not possible for Financial Regulations to anticipate all eventualities. Consequently, in any situation where there is no clear guideline, reference should be made to these Principles.

**Section 2 Financial Regulations**

**4.** **Financial Management Roles and Responsibilities**

4.1. The Director of Corporate Services has a statutory responsibility for proper administration of the Council’s financial affairs. However, this cannot be done in isolation and a culture for good governance and financial management also rests with the Senior Leadership Team.

4.2. All members and officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public money. They need to be able to demonstrate that the services provide by the Council provide value for money.

4.3. The Council shall have in place a formal scheme of delegation, which sets out which individuals or committees are entitled to make which decisions. Specifically, it details which decisions are reserved for the Council acting as a corporate body, which can be taken by its committees, specified individualmembers of the Senior Leadership Team, the chief executive, and specific officers.

4.4. The Council’s scheme of delegation is defined in the Council’s Constitution and any change approved by Council will update the Constitution.

4.5. Directors may delegate budget responsibility to functional managers ensuring that the same officer is not responsible for receiving or paying monies and rendering accounts or issuing receipts for the same. The Contract Procedure Rules document contains details of delegated responsibilities of Managers.

4.6. The names and sample signatures of officers or members authorised to certify, or sign documents should be kept and maintained by the Director of Corporate Services. Where authorisation is embedded within IT systems, this will be subject to the normal access control procedures.

**5.** **Financial Planning and Budgeting**

5.1. Effective governance and financial management are focused on ensuring that the authority can operate sustainably in the long term. The medium-term financial plan translates the financial strategy into the near future and the budget into the current.

5.2. The Council operates within an annual cash limit set by the approval of a balanced budget – a budget in which revenues are equal to expenditures including any balances brought forward from previous years.

5.3. The budget is the responsibility of the Director of Corporate Services but should be owned and articulated by the Senior Leadership Team.

5.4. The budget is set annually, in advance, to control expenditure and establish priorities. The Director of Corporate Services shall assess its robustness alongside the appropriate level of reserves.

5.5. The budget shall be developed alongside the Medium-Term Financial Strategy (MTFS) which considers all known factors affecting the Councils financial position and financial sustainability over a longer term (3 years)

**Budget Planning**

5.6. Each year the Directors, and/or other authorised officers, shall in accordance with a timetable and strategy prescribed by the Director of Corporate Services and supported by the finance team commence the budget process by:

5.6.1. Reviewing existing income and expenditure commitments

5.6.2. Identifying any areas for growth or reduction

5.6.3. Identifying any capital or revenue projects

5.6.4. Reviewing sources and projections for income and expenditure and proposing them to the Director of Corporate Services for inclusion in the draft budget.

5.7. When considering items for inclusion in the draft budget the Directors shall consider, as a minimum, the following:

5.7.1. Any financial or other strategies adopted by the Council

5.7.2. Prescriptions, restrictions, or guidelines issued by Central Government

5.7.3. Guidelines issued by the Council, Cabinet or Director of Corporate Services

5.7.4. Any pending pay awards, both actual and forecast

5.7.5. Any change in members allowances, both actual and forecast

5.7.6. Opportunities for reducing expenditure

5.7.7. Opportunities for increasing income

5.7.8. Any changes in fee or grant income already sanctioned or prescribed by statute or Central Government

5.7.9. Any changes to charges already sanctioned or prescribed by statute or Central Government

5.7.10. The outcome of any internal or external consultation

**Draft Budget**

5.8. The Director of Corporate Services shall prepare the initial Draft Budget and present to the Overview and Scrutiny Committee. The report should provide a summary of the revenue and capital budget proposals and should reflect and highlight the considerations made in 5.7 above. Feedback from this committee will be incorporated into the Proposed Draft Budget and Council Tax levels before presentation to Cabinet.

5.9. The Draft Budget shall be presented in a timely manner before the start of the new financial year with consideration of its need for subsequent approval by Cabinet (refer to 5.8)

**Budget Approval**

5.10. The Director of Corporate Services shall present the Proposed Draft Budget and Council Tax levels to Cabinet for approval. The presentation shall include the statutory statement on the robustness of the estimates and adequacy of reserves.

5.11. The Proposed Budget shall be presented for consideration in advance (LGFA 1992 states– before 11th March) of the start of the new financial year. Failure to set a budget may lead to intervention from the Secretary of State.

5.12. The Proposed Budget can only be adopted, and proposed expenditure executed if approved byCouncil.

**Variation of the Council’s Approved Budget**

5.13. Variations to the Approved Budget can be made during the financial year by Cabinet in the form of a supplementary estimate.

These variations to budgets are temporary and in year. The following exceptions do not require prior approval:

5.13.1. Any change in renumeration or other conditions or benefits of employment required by Central Government or a recognised negotiating body

5.13.2. Any other unexpected statutory change by Central Government

5.13.3. The scheme of Virements (changing the purpose of a budget):

1. These rules apply to virements within the General Fund and the Capital Budget. It is not possible to vire between these budgets

ii) Directors may approve the virement of budgeted expenditure not exceeding £15,000 between services after consultation with the relevant Portfolio Holder and the Director of Corporate Services.

iii) No virement shall be used to fund new services or projects that will create additional budget commitment in future years without the approval of Cabinet.

iv) Virements must be agreed before spending takes place and must not increase the Council’s overall budget

v Virements must be recorded in the general ledger and reported to Cabinet in the same way as other delegated decisions

**Medium Term Financial Strategy (MTFS)**

5.14. The MTFS is the responsibility of the Director of Corporate Services and will be produced and reported in conjunction with the annual budget and council tax proposals to the Overview and Scrutiny Committee and Cabinet. Further updates on the MTFS may be reported during the year.

5.15. The MTFS should critically assess the Council’s financial resilience and test the sensitivity of its financial sustainability to alternative plausible scenarios for the key drivers of cost, service demands and resources.

**Capital Projects**

5.16. Capital Projects will be considered by the Director together with Director of Corporate Services before being presented to Cabinet detailing the purpose and the amount of expenditure required. No capital expenditure shall be incurred until specific approval has been given by Cabinet.

5.17. Additional considerations to be applied to Capital projects:

5.17.1. The total estimated cost of the project, including provision for inflation, fees, salaries, and incidentals

5.17.2. Annual cost of maintenance, debt charges and other revenue expenditure, plus anticipated annual income

5.17.3. Details and estimated cost of any consequential or incidental works

5.17.4. Details of the proposed use and a scheme of management of the project after completion, including any manpower changes.

5.17.5. Details and the cost of any works to be superseded

5.17.6. Details and estimates of any expected capital grants

5.17.7 Risks and cost sensitivities

5.18. No specific further approval shall be required if approval was obtained in the annual budget process.

5.19. There is specific delegated approval required for property transactions pursuant to the Commercialisation Strategy. This a streamlined approval process and has been designed to assist the asset purchase programme by making the Council competitive in the open market whilst still giving the appropriate controls for decision making.

**Budget monitoring and control**

5.20. Regular budget monitoring is an important process in how the Council ensures that its services or capital expenditure operate within the limits of its budget. It also enables budget managers to take appropriate and timely action when variances are forecast.

5.21. It is the responsibility of service Directors to ensure robust budget management in their areas but they may delegate budget monitoring activities to function managers if appropriate. Functional Budget responsibility is defined in individual job descriptions. Delegation is activated via the Financial Accounting system ensuring transparency and appropriate control.

5.22. The Director of Corporate Services will publish a budget monitoring timetable so that timely consideration of the numbers can be planned. Service managers are required to adhere to the procedure for managing the Council’s establishment and ensuring that staff costs, including agency costs, stay within budget.

5.23. The Director of Corporate Services will ensure that each delegated budget manager is adequately trained in the process and purpose of budget monitoring.

5.24. The Director of Corporate Services will present a consolidated budget monitoring report to the Senior Senior Leadership Team and Cabinet at the end of each quarter, or more frequently if appropriate. The report will outline any areas of material overspends or income shortfall along with explanations from Directors as to the actions that are recommended to address the concerns.

5.25. There should be minimal delay between the period to which the performance information relates and the reporting of this information to the Senior Leadership Team. This may require the authority to streamline the way in which it collects, collates, analyses and reports performance information.

**Capital Monitoring**

5.26. The principles and framework for managing the revenue budget apply equally with regards to the monitoring and management of individual capital projects.

**6.** **Internal Control and Audit**

**Internal Control**

6.1. Internal control refers to the systems of controls devised by management to ensure the Council’s objectives are achieved in a manner which promotes effective, efficient, and economical use of resources and the Council’s assets and interests are safe-guarded.

6.2. For the Senior Leadership Team to demonstrate responsibility for governance and internal control, consideration should be given to the effectiveness of the arrangements in place including:

6.2.1. establishing a clear framework for governance and internal control across the Council, including for those entities with which the Council works in partnership

6.2.2. establishing clear arrangements for accountability and assurance. Any behaviour that falls short of the required standards of governance and internal control shall be dealt with promptly and effectively.

6.2.3. espousing high standards of governance and internal control in its own activities

6.2.4. creating, maintaining, and nurturing a culture in which governance and internal control are embedded into the way in which the Council works.

**Internal Audit**

6.3. The role of Internal Audit is to provide assurance that the Council’s risk management, governance and internal control processes are operating effectively. The Internal Audit function should conform to the Public Sector Internal Audit Standards.

6.4. Internal audit should work to an agreed plan, which is based on a robust analysis of the Council’s governance and internal control arrangements, the environment within which the Council operates and the risks and challenges that it faces. The scope and frequency of audits will be determined by the Audit Plan, subject to budget constraints. Internal audit should be adequately resourced and report to the Audit Committee.

6.5. The Audit Committee is responsible for reporting to Cabinet and Council on matters arising from its review of internal control and governance and the Annual Governance Statement.

**7.** **Financial Systems and Procedures**

**Accounting System**

7.1. An accounting system is an organized set of manual and computerised accounting methods, procedures and controls established to gather, record, classify, analyse, summarise, interpret and present accurate and timely financial data which can be retrieved for decision making.

7.2. The Director of Corporate Services must ensure that all accounting and other financial systems, and procedures adopted by the Council adhere to published standards and codes of practice and are acceptable to the Council’s external Auditor.

7.3. All accounting and financial systems in use must provide a comprehensive, consistent, and accurate record of the Council’s financial transactions. They should be sufficient to show and explain the Council’s transactions and enable accurate recording of income, expenditure, statement of balances and documentary evidence of adherence to scheme of delegation.

7.4. Financial systems of control must be designed so that no one individual is solely responsible for an entire process. They must be designed to prevent and detect inaccuracy and fraud.

7.5. Financial reports must be timely, clear, accurate, relevant, reliable, consistent. They should be complete, free from deliberate or systematic bias and material error.

**Accounting Policy and Statement of Accounts**

7.6. The Director of Corporate Services is responsible for the following:

7.6.1. determining the Council’s accounting policies and ensuring that they are applied consistently.

7.6.2. issuing guidelines on reporting standards to ensure that the annual Statement of Accounts is produced accurately, in line with published standards, within statutory time limits and that good documentation is available to support the Statement.

7.6.3. Reporting to audit committee on the annual accounts and publishing the Statement of Accounts in line with Statutory requirements

7.6.4. Liaising with external audit on the completion of the Statement of Accounts and the arrangements for their audit.

**8.** **Treasury Management**

8.1. Treasury Management is the management of all money and capital market transactions in connection with cash and funding resources of the Council. It does not include management of Pension Fund money.

8.2. All investment and borrowing activity shall be undertaken in a manner which complies with statutory requirements, the CIPFA Prudential Code for Capital Finance in Local Authorities and theCouncil’s Treasury Management Policy Statement including those parameters agreed annually within the Treasury Strategy Report.

8.3. CIPFA’s Prudential Code provides a framework for the self-regulation of the Council’s capital financing arrangements. It requires local authorities to determine that capital expenditure and investment decisions are affordable, prudent, and sustainable, and to set limits on the amount they can afford to borrow in the context of wider capital planning.

8.4. The Director of Corporate Services shall submit a report quarterly to Overview and Scrutiny Committee and bi-annually to Cabinet detailing the investment and borrowing activity on behalf of the Council for that period and demonstrating compliance with the Treasury Management Statement. All investments shall be made in the name of the Council. The investment of available funds shall be the responsibility of the Director of Corporate Services.

8.5. The Director of Corporate Services is responsible for the operation of bank account(s) necessary to carry out the Council’s day to day banking transactions. All bank accounts shall be in the name of Hart District Council. An officer can be nominated by The Director of Corporate Services to administer the bank accounts including ordering and safe keeping of cheque books. Administration does not grant access to funds but facilitates, for example the issue and withdrawal of bank cards, credit cards and the set-up of extraordinary payments for dual authorisation in line with policy.

8.6. No banking or credit card account shall be opened on behalf of or in the name of the Council at any bank or financial institution unless in accordance with the signature requirements of the Treasury Management Policy.

**9.** **External Arrangements**

9.1. The Council must act to achieve the promotion or improvement of the economic, social, and environmental well-being of its area.

9.2. All partnerships and joint working arrangements with outside bodies must be properly evaluated for risk before they are executed, and be supported by clear governance, accounting, and audit arrangements.

9.3. External funding can prove an important source of income, but funding conditions must be carefully examined before any agreement is entered into to ensure they are compatible with the aims and objectives of Council.

9.4. Legislation enables the Council to trade and provide services to third parties. All such work must be within the legal powers of the council (intra vires) and the respective risks and financial benefits associated with such work must be properly considered and a business case approved before any trading activities take place.

9.5. Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs. Contractual arrangements with any third parties or external bodies shall adhere to the scheme of delegation.

9.6. The Director of Corporate Services must ensure that the accounting and auditing arrangements to be adopted relating to partnerships, joint ventures and accountable bodies are satisfactory. They must also consider the overall corporate governance arrangements when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

9.7. Budget Holders are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

**10.** **Other Financial Regulations**

**Orders and Payments**

10.1. The procurement of services, supplies and works shall comply with the Council’s Contract Procedure Rules.

10.2. Except as provided for in clause 5.13 no member, officer, employee, or anyone acting on the Council’s behalf shall incur unbudgeted expenditure or reduce budgeted income without prior approval of the Council.

10.3. Purchase Orders should be raised for all procurement unless an exemption applies. Exceptions include regular payments to utilities, or purchases made by Corporate Credit Card (separate rules apply including the requirement for timely submission of invoices/receipts **Link**). Purchase Orders must only be raised if sufficient approved budget exists.

10.4. Invoices received that do not quote a valid purchase order will be rejected.

10.5. Each budget holder shall check and certify that optimum payments terms are agreed, taking account of the need to maintain a good relationship with its suppliers and to secure any discounted payment options.

10.6. Each budget holder shall ensure that, when appropriate, VAT is included on invoices.

10.7. Each budget holder will be required to document expenses which relate to expenses which are invoiced after the 31st March year end but relate to periods prior to this. The Director of Corporate Services will ensure that these values are accrued.

**Payment of Salaries, Wages and Other Emoluments**

10.8. The payment of all salaries and other payments to employees shall be made under arrangements approved by the Director of Corporate Services.

10.9. Responsible Officers must follow any corporate processes put in place to control changes made to their employee establishment or salary and allowance payments associated with a post, seeking guidance from finance and Human Resources as needed.

10.10. Responsible Officers must follow any corporate processes in place to manage appointments, resignations, dismissals, absences from duty and other such information required in connection with the calculation and payment of salaries and wages. These must be done promptly to avoid unnecessary salary corrections after payment is made.

10.11. Responsible Officers must ensure proper financial control of their employee budgets in accordance with their revenue expenditure responsibilities.

**Employee Expenses and Deductions**

10.12. Expense Claims made must contain all necessary information, be made promptly, and be authorised by an appropriate manager before being considered for payment. Corporate processes are in place to ensure these requirements are met.

10.13. VAT receipts as proof of expenditure must be obtained and submitted with the claim form before reimbursement is made. Car park tickets are acceptable for proof of parking expenditure.

10.14. An authorising officer certifying a claim must be satisfied that:

10.14.1. the time or expenditure claimed is reasonable and accurate.

10.14.2. the duties or activities described have been performed

10.14.3. payment is in accordance with the employee’s contract of employment

10.15. Deductions from salaries must be in accordance with the Wages Act 1986, which requires specific written employee authorisation before any deduction can be made, unless covered by statute or other legal order. These should then be appropriately accounted for and paid promptly to the receiving bodies.

10.16. Travel Claims: Individuals are responsible for establishing the most economical and feasible method of transport to make work related journeys.

10.17. Any use of personal cars for work related travel be adequately insured for business use.

10.18. When travelling from home, claims should only be made for expenditure above that which would normally be incurred by an employee travelling from home to the normal place of duty.

10.19. Rail Warrant Books: Rail warrants should only be used for authorised work-related journeys. All books of rail warrants must be accounted for and records maintained of their use.

**Payments to Members**

10.20. Allowances and expenses paid to members shall be in accordance with the Council’s approved scheme.

10.21. Payments to members will be paid in accordance with the procedure approved by the Council.

10.22. VAT receipts as proof of expenditure must be obtained and submitted with the claim form before reimbursement is made. Car park tickets are acceptable for proof of parking expenditure

**Income Collection and Banking**

10.23. Except where the Council has no discretion, all fees and charges should be reviewed at least annually and approved by Cabinet.

10.24. The income collection methods employed should ensure the efficient and prompt collection of income due and comply with the Council’s Collection and Recovery Policy.

10.25. There should be more than one person involved in the process for raising accounts, receiving, and banking the income and reconciling or verifying the reconciliation of income collected.

10.26. All arrangements for the collection of income are subject to the approval of the Director of Corporate Services. Budget holders are responsible for ensuring that all income due is collected in accordance with Council policy.

10.27. Income should be collected in advance wherever possible and appropriate, or at the point of sale.

10.28. Appropriate arrangements must be made for all income collected to safeguard against loss or theft.

10.29. Where cash is collected, appropriate consideration should be given to the security arrangements for both the cash and the personnel involved.

10.30. All income received should be banked in full as soon as practical and within 5 working days. All income received should be processed promptly into the Council’s financial accounting systems.

10.31. Appropriate arrangements should be used to confirm that all monies collected have been accounted for.

10.32. Officers may not substitute personal cheques for cash payment received on behalf of the Council.

**Debts Write Off**

10.33. Debts up to the value of £5,000 may be written off on the authority of the Director of Corporate Services where the debt is deemed irrecoverable or is unlikely to be recovered at economic cost. This authority is delegated to Capita for housing benefit debts who are required to follow the same assessment process.

10.34. Debts over £5,000 must be referred to the Director of Corporate Services who will seek approval from the Cabinet Member with responsibility for Finance. All such write-offs must be reported to Cabinet.

10.35. Sufficient information about the debt and recovery action taken must be provided and documented before authorisation for write-off can be given.

**Physical Assets**

10.36. The Director of Corporate Services will maintain the Asset Register' which contains details of all assets leased or owned by the Council which exceed the Capital de-minimis levels. This must be maintained in accordance with the accounting policies of the Council.

10.37. The Director, responsible for land shall maintain an up-to-date terrier of all land owned, leased, or licensed by the Council and of land sold or leased off. The terrier must

• record the purpose for which the land is held and

• record the location, extent, and plan reference of the land

10.38. Directors shall supply any information required to maintain these registers.

10.39. Directors are responsible for maintaining proper security, care and protection of all building, equipment, vehicles, stocks, stores and cash under their control. This includes minimising the risks of natural hazards, theft, damage and misuse.

10.40. The Director of Corporate Services shall be informed, as soon as possible, of any break-in, theft or attempt at such, and any loss otherwise suffered.

**Insurance and Assessment of Risk**

10.41. The Director of Corporate Services shall establish appropriate insurance cover for the Council and review it annually in consultation with relevant managers. Responsibility for managing insurance can be delegated to a nominated Officer.

10.42. Managers should give notification to the nominated insurance officer of any circumstances, risks, purchases, or disposals which may affect the insurance cover required.

10.43. The Director of Corporate Services shall be notified immediately in writing by the relevant Director of any loss, liability or damage suffered by or occasioned to any person, property or thing.

10.44. Directors shall bring to the attention of their staff any situation where they think the Council may be at risk from an insurance claim or where immediate action may minimise the risk of such a future claim.

10.45. The Director of Corporate Services shall deal with claims against or on behalf of the Council arising from insured risk. Where any claim is made against the Council and is recoverable under a policy of insurance, the Director of Corporate Services is authorised to incur any necessary expenditure in meeting the claim subject to prior consultation with the Council’s insurers.

10.46. Managers should ensure that suppliers, contractors, consultants or agents engaged must have insurance arrangements that adequately protect the Council’s interests.

10.47. The Council is responsible for putting in place arrangements for the management of risk. The Council will annually review the Council’s Corporate Risk Assessment policy.

10.48. A corporate risk assessment will be prepared detailing those risks which may adversely impact on the achievement of the Council’s objectives and the controls in place and planned to mitigate them. The corporate risk assessment will be annually reviewed by the Council.

10.49. All project plans and business cases that consider major financial investment by the Council must be subject to a sufficiently robust and documented risk assessment that is reviewed as part of their appraisal by the appropriate Committee or Council. No commitment may be entered into until the appraisal is completed and reviewed.

**Annex A – Scheme of Delegation**

| **Maximum Authorisation Value** | **Role** |  |
| --- | --- | --- |
| Up to £20,000 | Budget Manager    List of authorisers available in the finance system:   “REQNPTAUTHLEVELS” | Role responsibility  defined In Job  Description. |
| £20,000 to £100,000 | Executive Directors |  |
| Over £100,000 | S151 Officer and  Chief Executive Officer |  |

**Annex B – Land Disposals**

1. **Introduction**
   1. Council decisions to dispose of land are subject to statutory provisions; in particular, under section 123 of the Local Government Act 1972, to obtain the best consideration that can be reasonably obtained for the disposal of land. This duty is subject to certain exceptions that are set out in a government document, referred to as “the General Disposal Consent (England 2003)”
   2. If the Council wishes to dispose of land for less than best consideration, and it is not covered by the General Disposal Consent, the Council can resolve to do so, but will require the formal consent of the Secretary of State. The General Disposal consent allows the Council to dispose of sites at an under value of up to £2m in the interests of social, economic, and environmental well-being of the community.
2. **Definition**
   1. Land means any freehold disposal, by sale or exchange, of Council owned land or buildings and any disposal by the granting of a lease.
   2. This excludes:
      1. the granting of licences, easements, rights of way, wayleaves,
      2. tenancies-at-will, periodic hiring arrangements
      3. the renewal of leases under the Landlord and Tenant Act 1954,
   3. A decision to dispose of land or property and the terms for that disposal will be determined depending upon the Delegation Scheme set out in the Constitution.
3. **Valuation**
   1. This will be arranged by the Director of Corporate Services who will engage a specialist Valuer in accordance with the Royal Institute of Chartered Surveyors guidelines.
   2. Where there is likely to be a delay in completing a sale/lease, such that the Council may be in danger of not obtaining the best consideration, the Director of Corporate Services will ensure that prior to finalisation, a current valuation is undertaken.
4. **Methods of Disposal**
   1. Disposals shall normally be by formal tender, informal tender, public auction, or private treaty.
5. **Formal Tender**
   1. With a formal tender, potential purchasers must make binding offers in a specified form, by a specified date and within a specified deposit.
   2. Sale of land by formal tender is likely to be appropriate in the case of freehold land disposals and where the land ownership and corporate sale objectives are not complex.
   3. The Council will place a public advertisement seeking expressions of interest and publicise the selection criteria by which it will assess tenders. The tender process will be carried out in accordance with the Council’s CSO’s.
6. **Informal Tender – with post tender negotiations**
   1. With an informal tender, non-binding offers are secured by a specified date and preferred bidder(s) is/are selected. Terms are negotiated with selected bidder(s)which may include the nature of development proposals. This method also allows for the use of conditional contracts, including clauses linked to planning permission.
   2. This method is likely to be particularly useful for freehold land disposals for large or complex development or regeneration sites where the proposals need to be developed in co-operation with the preferred bidder to meet the Council’s corporate objectives and to achieve the best consideration that can be reasonably obtained.
   3. The Council will ensure a competitive process is followed and participants will be informed in advance of the procedures and criteria for assessing proposals. Tender bids will be invited in accordance with the Council’s CSO’s adapted and recorded, as necessary.
7. **Disposal by Informal Tender – without post tender negotiations**
   1. With such an informal tender, non-binding offers are secured by a specified date and a preferred bidder is selected. This can be on a conditional basis, including obtaining planning consent as well as

being subject to contract. This method is likely to be particularly useful for freehold land disposals which are simpler.

* 1. The Council will ensure a competitive process is followed to seek expressions of interest and participants will be informed in advance of the procedures and criteria for assessing proposals. Tender bids will be invited in accordance with the CSO’s adapted and recorded, as necessary.

1. **Disposal by Public Auction**
   1. Sale by public auction may be appropriate in certain cases to achieve best consideration and where speed and certainty is required.
   2. In the event of a disposal by auction, a reserve price, based on the Director of Corporate Services valuation, will be imposed, which must first be approved within the Scheme of Delegation.
   3. The contract for sale or auction must be ready for exchange at the auction where a binding contract will be made on acceptance of the highest bid providing it has reached any reserve price.
2. **Disposal by Private Treaty – through Open Marketing**
   1. With such a private treaty sale the property is first marketed, including advertising to generate interest, normally with an asking or guide price, with the aim of achieving a bid (without there being a need to have a specified time limit for obtaining bids) representing the best consideration that can be reasonably obtained. The Council may as part of this process and after the commencement of marketing, request best and final offers be made by a specified date. This method is applicable to freehold disposals of lower value, or non-development property.
   2. Negotiations will take place between the Council and the prospective purchasers (or their respective agents). A letting/sale by this method will only take place once the terms have been approved within the Council’s Scheme of Delegation.
3. **Disposal by Private Treaty – off Market**
   1. With such a private treaty sale the land is not offered on the open market as a first stage, but negotiations will take place between the Council and one party.

This may be justified where:

1. The land is small in size/value
2. The purchaser is an adjoining or closely located landowner, and the only potential or likely purchaser
3. the nature of the Council’s land ownership is such that the land must be sold to adjoining or surrounding landowners if best consideration is to be obtained
4. where there is a special purchaser for whom the land has a higher value than anyone else e.g. ransom strips, or where there is marriage value
5. where Council objectives would be best met by undertaking private treaty negotiations with a single party who would bring social environmental or economic benefit
6. where the proposed transaction involves a party who already had a property interest in the land in question
   1. The reasons justifying an off market private treaty sale must be recorded in writing and must be approved by the authorising party under the Scheme of Delegation.
7. **Negotiations with Prospective Developers/Purchasers/Tenants**
   1. Generally, these will take place either at the Council’s offices, on site, at an agent’s office, or at the purchasers/tenants office, within normal office hours. Where possible, in relation to higher value disposals, two officers should be present. However, it is accepted that this will not always be possible / a sensible use of resource. File notes are kept of all negotiations with prospective developers / purchasers or tenants. The progress of negotiations will, where appropriate, be reported to relevant Members, however, Councillors will not be directly involved in negotiating the disposal of land.
   2. Prior to completion of legal documentation all proposed transaction details and negotiation details will remain confidential.
8. **Late Bids**
   1. The Council discourages the submission of late bids in all cases when it is disposing of land. It will attempt to minimise problems by aiming for early exchange of contracts.
   2. Each “late bid” must be considered in the context of the individual circumstances at the time. The Council’s approach to “late bids” will vary depending upon the method of land disposal used. In each case the overriding duty will be to obtain the best consideration that can reasonably be obtained (subject to any exceptions in the General Disposal Consent).
   3. Late bid approach:
9. Where land is disposed of by way of formal tender, bids received after the deadline for tenders, will not be considered.
10. Late bids cannot be considered where land is being disposed of by public auction after a successful bid has been accepted.
11. Except as provided in points (i) & (ii) above, until the Council has entered into legally binding agreement with another party, it will consider late bids unless there are good commercial reasons for not doing so. This must be explained to any purchaser when disposal by private treaty or informal tender is agreed.
    1. The Council may, in appropriate circumstances, ask both the late bidder, the person to whom the land was previously to have been sold, and any other relevant interested parties (e.g. previous bidders) to submit their last and final bids in a sealed envelope by a set deadline.
    2. A decision on whether to accept a late bid for a private treaty sale or informal tender will be made based on the value of the land and within the Scheme of Delegation as appropriate
12. **Public Open Space**
    1. Land which is designated as public open space will not be sold/leased by the Council until the applicant has first obtained the necessary planning consent, the proposal has been advertised and local Ward Members have been consulted, and observations/objections received have been considered.
13. **The Crichel Down Rules**
    1. When disposing of land which has been acquired by the Council by use of Compulsory Purchase powers, the Cabinet will consider the Crichel Down Rules which state that former owners or their successors should be given first opportunity to repurchase the land,

provided that it has not been materially changed in character since acquisition.

1. **Works in Lieu of Payment**
   1. In some cases, it may be appropriate for the purchaser to be required to provide replacement facilities or other works such as highways or landscaping as part consideration for the land/property.
   2. Any proposed works in lieu of payment should be thoroughly examined at the option appraisal stage to ensure value for money and the Head of Finance (s151) should be consulted to determine the accounting treatment. The works required should be clearly specified in any marketing package in order that there is competition between bidders in relation to procurement of the works.
2. **Disposals for Less than Best Consideration**
   1. In certain circumstances, the Council may dispose of land for less than the full market value. Those circumstances are clearly defined by law and in any other cases specific consent is needed from the Secretary of State. General Disposal Consents have been given by the Secretary of State for certain transactions.
   2. The General Disposal Consent makes provision for the Council to dispose of land at less than full market value, known as “under- value”. Specified circumstances must apply as follows:
3. The Council considers that the purpose for which the land is to be disposed of is likely to contribute to the promotion or improvement of the economic, social or environmental wellbeing of the whole or part of its area, or any person resident or present in its area.
4. The difference between the unrestricted or market value of the land to be disposed of and the consideration for the disposal does not exceed £2million.
   1. The Council must still comply with its duty to obtain best consideration for the restricted value and must also comply with normal and prudent commercial practices including obtaining professional valuer advice on the likely amount of any under-value.
   2. All disposals covered by the definition of less than best consideration must be referred to Cabinet for approval.
   3. The General Consent does not override restrictions on state aid arising under relevant Legislation.