



MERSEYSIDE WASTE DISPOSAL AUTHORITY

## **CONSTITUTION**

# **MERSEYSIDE WASTE DISPOSAL AUTHORITY**

## THE AUTHORITY'S CONSTITUTION

Merseyside Waste Disposal Authority's Constitution sets out how we operate, how decisions are made and the rules and procedures we have adopted to maintain high standards of efficiency, transparency and accountability to local people. Some of these are required by law, while others are a matter for the Authority to choose.

The Constitution is comprised of the following articles:

- Scheme of Delegation (**Article 1 – Page 4**)
- Authority Procedural Rules (**Article 2 – Page 10**)
- Financial Procedural Rules (**Article 3 – Page 33**)
- Contract Procedural Rules (**Article 4 – Page 55**)
- Information Procedural Rules (**Article 5 – Page 70**)
- Code of Conduct for Members (**Article 6 – Page 81**)
- Code of Conduct for Employees (**Article 7 – Page 89**)
- Member / Officer Protocol (**Article 8 – Page 102**)

## WHO WE ARE

The Authority is a single purpose statutory authority established on 1st April 1986 by the Waste Regulation and Disposal (Authorities) Order 1985, made under the powers in Part II of the Local Government Act 1985.

We are primarily responsible for:-

- a) making arrangements (with contractors) for the disposal of waste collected by the constituent Waste Collection Authorities on Merseyside (namely Knowsley, Liverpool, St Helens, Sefton and Wirral Councils). We also provide services to Halton Council through an Inter Authority Agreement;
- b) providing and making arrangements (through our contractors) for the provision and operation of household waste recycling centres (HWRCs) for use by members of the public and the removal of waste deposited at those sites;
- c) making arrangements for the recycling, composting and treatment of waste and meeting any statutory performance standards to promote the sustainable management of waste;
- d) discretionary payments of 'recycling credits' to third parties; and
- e) aftercare of former landfill sites owned or under the control of the Authority.

## **AUTHORITY MEMBERS**

The Authority comprises nine Members who are Councillors from the five Merseyside Councils. In accordance with a statutory apportionment, the number of appointments is as follows:

Knowsley – 1 Member  
Liverpool – 3 Members  
St Helens – 1 Member  
Sefton – 2 Members  
Wirral – 2 Members

Halton Council also have a Member on the board in support of the Inter Authority Agreement, however, their representative does not have voting rights.

Although the Authority is not required to have a Code of Conduct for Members, it has adopted a voluntary code which Members have agreed to follow to ensure high standards in the way they undertake their duties.

Members meet at Authority meetings to take decisions on high level matters such as policy, strategy and budget and the conduct of those meetings is set out in the Authority Procedural Rules. Meetings are held in public and there is an opportunity for members of the public to ask questions subject to the provisions set out in the Authority Procedural Rules, however, the public may be excluded during consideration of some items on the agenda where the matter relates to confidential or other exempt information.

## **AUTHORITY STAFF**

The Authority employs staff (referred to as ‘Officers’), headed by the Chief Executive, to give advice, implement decisions and manage the day-to-day delivery of services. There are also Statutory Officers (Treasurer, Clerk and Monitoring Officer), who have specific duties to ensure that the Authority acts within the law and uses its resources wisely. Officers are required to adhere to a Code of Conduct for Employees and there is a Member / Officer Protocol which governs the relationships between Officers and Members of the Authority.

## **HOW DECISIONS ARE MADE**

The Authority operates a Scheme of Delegation which specifies which decisions must be taken by Members at Authority Meetings (Key Decisions) and those which can be delegated to Officers. Key Decisions are defined in the Authority Procedural Rules as those decisions which are significant financially or in terms of community impact.

For information, the Authority has adopted the name of “Merseyside Recycling and Waste Authority” for public facing purposes and this appears in much of our literature and online. However, in the context of the Constitution, “Merseyside Waste Disposal Authority” is the decision-making body established under the Local Government Act 1985 and it is this name that is referred to throughout the following articles.

**For further information, please contact the Clerk and Monitoring Officer, Merseyside Waste Disposal Authority, 7<sup>th</sup> Floor, No. 1 Mann Island, Liverpool, L3 1BP or alternatively you can email [enquiries@merseysidewda.gov.uk](mailto:enquiries@merseysidewda.gov.uk)**

# **ARTICLE 1**

## **SCHEME OF DELEGATION**

## **1 INTRODUCTION**

- 1.1 The Authority will meet to consider Key Decisions, as defined in the Procedural Rules, and scrutiny issues with regard to delegated decisions, which have been called-in in accordance with the Procedural Rules and the provisions of this Scheme.
- 1.2 This Scheme delegates to the Chief Executive and where appropriate, the Authority's Statutory Officers (as defined in the Authority Procedural Rules), all the powers and duties of the Authority necessary for the discharge of its functions.
- 1.3 In this Scheme, unless the context otherwise demands, the definitions and interpretations used in the Authority Procedural Rules shall apply.
- 1.4 For the purposes of this Scheme:
  - (a) Administrative Decisions are decisions by one of the Officers identified in paragraph 1.2 above which can be dealt with or sub-delegated under the provisions detailed in paragraph 2.4 below.
  - (b) Executive Decisions are those decisions which do not fall within the definition of Administrative Decisions and are not Key Decisions and may be delegated to an Officer, following consultation with the Chair and Deputy Chair and all the Members of the Authority and subject to the scrutiny provisions identified in the Scheme.
  - (c) Key Decisions are as defined in the Authority Procedural Rules

## **2 OVERALL LIMITATIONS**

- 2.1 This Scheme does not delegate to Officers:
  - (a) any matter reserved by law, or by the Authority, to the Authority itself, or to a committee or sub-committee of the Authority;
  - (b) any matter which by law may not be delegated to an Officer;
  - (c) any Key Decision, as defined in the Authority's Procedural Rules.
- 2.2 Officers may only exercise delegated powers in accordance with:
  - (a) the established policies of the Authority;
  - (b) the budget approved by the Authority;
  - (c) the Authority's Procedural Rules, Contract Procedural Rules and Financial Procedural Rules;

(d) any statutory restrictions, guidance or codes of practice and guidelines given from time to time by the Authority.

2.3 In exercising delegated powers, Officers shall not incur expenditure, which is not provided for in the Authority's approved Capital and Revenue Budgets.

#### 2.4 Sub-Delegation

This Scheme includes the power for the Officers identified in paragraph 1.2 above to further delegate any function which has been delegated to them under this Scheme to another Officer or Officers. Every such sub-delegation shall be in writing and reflected in job descriptions where appropriate, setting out the terms and conditions upon which that function is to be performed and accountability for the performance of the sub-delegated function. The Officer making such sub-delegation shall record the sub-delegation in a register maintained for the purpose by the Proper Officer.

2.5 In exercising any delegated function, Officers shall have regard to the requirement to comply with the restrictions set out in paragraph 2.2 above and shall be responsible for undertaking any appropriate consultation with the Authority's Statutory Officers before making any decision.

2.6 In exercising any delegated function, Officers shall have regard to any professional standards or operational policies of the Authority.

2.7 There are two types of decisions which may be taken by Officers under this scheme of delegation:

(a) Executive Decisions

(b) Administrative Decisions

### **3 EXECUTIVE DECISIONS**

#### 3.1 Consultation

(a) Before taking any Executive Decision, the Officer shall, in consultation with the Chief Executive and the Authority's statutory officers, prepare a report, setting out:

(i) the Officer preparing to take the decision;

(ii) the issue to be decided;

(iii) any restriction upon the publication of the report as if the decision were a decision falling to be made by a committee or sub-committee of the

Authority in accordance with Sections 100 and 100A to 100K of the Local Government Act 1972;

- (iv) any facts upon which any decision must be based;
  - (v) any legislative requirements;
  - (vi) any Authority policy relating to the issue;
  - (vii) any relevant national or regional guidance;
  - (viii) the alternative options available to the Officer;
  - (ix) the staffing and financial implications of the issue;
  - (x) an assessment of the risks associated with the issue to be decided;
  - (xi) any consultations undertaken; the view of any consultees;
  - (xii) any implications for any other areas of the Authority's activities;
  - (xiv) the Officer's proposed decision and the reasons supporting the Officer's proposed decision.
- (b) Following consultation with the Chair and Deputy Chair, a copy of the report will be submitted to all Members of the Authority by Proper Officer.

### 3.2 Call-in

Two or more Members may object to the proposed decision, within 5 working days of receiving it, by notifying the Proper Officer of their objection and requesting that it be referred to the next meeting of the Authority for determination.

If a Member has no objection to the proposed decision he will return the report to the Proper Officer within 5 clear working days of receiving it.

### 3.3 Determination

Where no objection has been received from two Members within the timescale outlined above, the Officer may proceed to make a final decision as indicated in the report.

Where two Members have requested that the report be referred to a meeting of the Authority, the Officer shall no longer have the power to take the final decision. The Proper Officer shall include the report for decision to the next meeting of the

Authority and the Officer's proposed decision shall form the recommendation to the Authority.

### 3.4 Urgent Decisions

Where an Officer is of the opinion that an Executive Decision for which he/she is responsible should be made urgently in order to prevent or reduce the risk of damage to persons or property, or to the interests of the Authority, and that the urgency of the decision is such that it is not practicable to complete the Executive decision-making process set out above, the Officer shall:

- (a) use his/her best endeavours, as far as the urgency of the matter permits, to consult those persons whom he/she would have been required to consult had the full Executive decision-making process been followed; and
- (b) have the full power to take that Executive decision, notwithstanding that the full procedure has not been followed;
- (c) as soon as practicable after taking the decision, ensure that a report set out as in paragraph 3.1(a) is prepared, setting out also the reasons for the urgency and the final decision which has been taken, and that report shall go to the next convenient meeting of the Authority for information.

### 3.5 Recording of Executive Decisions

Upon making an Executive decision, the Officer shall provide the Proper Officer with a written statement of the decision, signed by the Officer, within 2 working days of the date of the decision.

The Proper Officer shall publish all Executive decisions within 5 working days of the date of the decision and shall ensure that a record of these decisions, including a copy of the report, subject to any requirement for confidentiality, is available for public inspection during normal office hours, and that the public shall have a right to copy or to be provided with a copy, of any part of that record upon payment of a reasonable copying and administrative charge.

### 3.6 Accountability

Officers are accountable for any decision which they make and may be required to report to and to attend and answer questions at an Authority meeting in respect of such decisions.

## **4 ADMINISTRATIVE DECISIONS**

4.1 A decision shall not comprise an Administrative Decision if:

- (a) it is not within an approved budget;



- (b) it is in conflict with the established policies of the Authority;
- (c) it raises new issues of policy;
- (d) it will result in any staff being displaced or TUPE transferred;
- (e) it requires the acquisition or disposal of any interest in land;
- (f) it requires a virement of funding of above £50,000;
- (g) it requires the acceptance of a tender for a contract in excess of £100,000 unless such an acceptance satisfies value for money requirements stated in the Contract Procedural Rules;
- (h) it proposes the payment of an ex-gratia payment or payment of a sum in settlement of a complaint against the Authority;
- (i) it proposes the write-off of a debt to the Authority of more than £1,000;
- (j) the Officer is of the opinion that it should be treated as an Executive Decision or a Key Decision.

#### 4.2 Consultation and Publicity

- (a) Officers do not have to produce or publish a formal written report in respect of an Administrative Decision, but they must undertake appropriate consultation with the relevant Officers (as defined in the Authority's procedural rules, policies and procedures in relation to the specific decision being taken), before making the decision.
- (b) Where the decision proposes the write-off of a debt owed to the Authority, the Treasurer must be consulted and the matter must be dealt with in accordance with the Financial Procedure Rules.

#### 4.3 Recording and Reporting of Administrative Decisions

Officers are responsible for ensuring that the Administrative Decisions they take, and the reasons for such decisions, are recorded sufficiently for audit and evidential purposes and that all those who need to know are informed promptly of the decision. The method of recording different types of Administrative Decisions will be determined by the Clerk, however, there is no requirement to maintain a public register of Administrative Decisions for the purpose of Member or public access.

# **ARTICLE 2**

## **AUTHORITY PROCEDURAL RULES**

## **AUTHORITY PROCEDURAL RULES**

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## 1. DEFINITIONS

- (1) In these Procedural Rules, unless the context otherwise demands, the following terms have the meaning assigned to them:-

"Authority" - the Merseyside Waste Disposal Authority acting by any means which it lawfully adopts.

"Committee" - a committee of the Authority

"Chief Executive" - means the Chief Executive of the Merseyside Waste Disposal Authority, who is responsible for the corporate and overall strategic management of the Authority, or his/her duly authorised representative

"Chair" – a Member duly elected under the Authority Procedural Rules to chair the Authority, or a specified Committee as the case may be, for the duration of the Municipal Year

"Deputy Chair" – a Member duly elected under the Authority Procedural Rules to deputise for the Chair of the Authority, or the specified Committee as the case may be, for the duration of the Municipal Year

"Key Decision" – a decision

- (i) incurring expenditure or making savings which are Financially Significant, unless the specific expenditure or saving has previously been agreed by the Authority;
- (ii) which, in the view of the Chief Executive, in consultation with the Chair, is significant in terms of its effect on communities living or working in Merseyside; or
- (iii) the Chief Executive is of the opinion that it should be treated as a Key Decision.

### Financially Significant

A decision will be considered financially significant if:-

- a) in the case of revenue expenditure, it results in incurring expenditure or making savings of £250,000 or greater;
- b) in the case of capital expenditure, the capital expenditure/savings are in excess of £1 Million;

unless the specific expenditure or savings have previously been agreed by the Authority.

### Significant Effect on Communities

In determining whether a decision is significant, consideration will be given to:-

- a) the number of residents/service users/District Council areas that will be affected;
- b) whether the impact is short term, long term or permanent;
- c) the impact on the community in terms of the economic, social and environmental well-being.

"Employee" - an employee of the Authority

"Office Holder" – the holder of a paid office under the Authority

"Meeting" - a meeting of the Authority or committee as the case may be

"Municipal Year" – the period commencing from the date of the Annual Meeting until immediately prior to the next.

"Member" - in relation to the Authority, a member of the Authority in relation to any committee, a person appointed as a member of that committee whether or not entitled to vote

"Observer Member" – Elected Councillor given limited Member status to be determined by and at the discretion of the Authority

"Person Presiding" - the person entitled or appointed to preside at any meeting

"Proper Officer" - the Clerk to the Authority

"Monitoring Officer" means the officer appointed in accordance with Section 5 of the Local Government and Housing Act 1989.

"the 1972 Act" - the Local Government Act 1972

"the 1989 Act" - the Local Government and Housing Act 1989

"Treasurer to the Authority" means the officer appointed under section 73 of the Local Government Act 1985, responsible for the provision of the financial services to the Authority or his/her duly authorised representative

“Statutory Officer” means the Authority’s Monitoring Officer, Proper Officer or Treasurer

“summons” – as defined under Rule 8 of these Procedural Rules

“Working Day” means a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales

- (2) "person" - includes any persons and any body or association, corporate or incorporate
- (3) “the whole number of members” - in relation to the Authority means the total number of persons who may become members of the Authority
- (4) "without comment" – means in relation to the moving, seconding or putting of a motion without any person speaking except to indicate the wording of the motion, the fact that it is being moved, seconded or put or (in the case of the Person Presiding) the effect of adopting the motion

## 2. **PROCEDURAL RULES**

- (1) No arrangements may be made whereby a committee or officer may exercise any power of the authority to vary, revoke or add to these Procedural Rules.
- (2) Any of the Procedural Rules may be suspended by the Authority provided that either:
  - (a) notice of intention to move such suspension has been included in the agenda for the meeting; or
  - (b) at least one half of the number of members of the Authority are present.
- (3) A suspension under (2) shall have the effect that the Procedural Rule suspended is not in force during the period of suspension. A suspension shall last only for the meeting at which it is adopted.
- (4) A printed copy of these Procedural Rules and of relevant extracts from enactments regulating the proceedings and business of the Authority shall be given to each member of the Authority.
- (5) The ruling of the Person Presiding at any meeting as to the construction or application of any of these Procedural Rules shall not be challenged.

### 3. **ANNUAL MEETINGS OF THE AUTHORITY**

3.1 The annual meeting of the Authority shall be held between such dates as specified by the Local Government Act 1972 (namely 1<sup>st</sup> March and 30<sup>th</sup> June (inclusive)) or any Order which has the effect of varying these dates, and at such place and time as the Authority may fix.

3.2 The annual meeting will:

- (i) elect the Chair;
- (ii) elect the Deputy Chair;
- (iii) receive apologies for absence;
- (iv) approve as a correct record the minutes of the last meeting of the Authority and for the Chair to sign them;
- (v) receive any Chair's communications;
- (vi) agree the scheme of delegation;
- (vii) consider any business set out in the notice convening the meeting.

3.3 At the annual meeting, the Authority meeting will:

- (i) decide which committees to establish for the municipal year;
- (ii) decide the size and terms of reference of those committees;
- (iii) receive nominations of councillors to serve on each committee and outside body;
- (iv) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Authority.

### 4. **ORDINARY MEETINGS OF THE AUTHORITY**

4.1 Ordinary meetings of the Authority will take place in accordance with a programme agreed by the Authority.

4.2 The Chair, in consultation with the Proper Officer and the Chief Executive, may cancel any of such meetings if, in their opinion, insufficient business has arisen for consideration.



#### 4.3 Ordinary meetings will:

- 4.3.1
- (i) elect a person to preside if the Chair and Deputy Chair are not present;
  - (ii) receive apologies for absence;
  - (iii) approve the minutes of the last meeting;
  - (iv) receive declarations of interest from Members and Officers;
  - (v) receive any announcements from the Chair;
  - (vi) receive questions from, and provide answers to, members of the Authority in accordance with Procedural Rule 9;
  - (vii) receive questions from and provide answers to, the public in accordance with Procedural Rule 10;
  - (viii) deal with any business which was not disposed of at the last Authority meeting;
  - (ix) receive and consider reports, minutes and recommendations of committees;
  - (x) consider motions of which notice has been given submitted by members of the Authority in accordance with Procedural Rule 15, in the order in which they are recorded as having been received;
  - (xi) consider key decisions specified in the Summons for the meeting;
  - (xii) consider scrutiny issues in respect of delegated Executive Decisions called in by any two members of the Authority and specified in the Summons for the meeting;
  - (xiii) consider other business, if any, specified in the Summons for the meeting.

#### 4.3.2 The order of business in 4.3.1 may be varied by

- (a) direction of the Chair made with the unanimous consent of the members present, but not so as to alter the order of items (i) to (x);
- (b) a resolution of the Authority (moved, seconded and put without comment) but not so as to alter the order of items (i) to (v).

4.3.3 The items of business under (xi) to (xiii) in paragraph 4.3.1 shall be considered in the order in which they are listed in the agenda for the meeting.

4.3.4 If the Chair decides that an item of business not included in the agenda for the meeting sent with the Summons for the meeting may be taken for reasons of urgency, that item shall, subject to any direction or resolution under 4.3.2 above be taken at the end of the other items of business.

## 5. **EXTRAORDINARY MEETINGS OF THE AUTHORITY**

5.1 Those listed below may request the Proper Officer to call Authority meetings in addition to ordinary meetings:

(i) the Authority by resolution;

(ii) the Chair;

(iii) the Deputy Chair, if the office of Chair is vacant or the Chair is unable to act for some reason;

(iv) any three members of the Authority if they have signed a requisition presented to the Chair and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition;

(v) a statutory officer in the exercise of their duties.

5.2 Any requisition under 5.1(iii) may be presented to the Chair by being left for him/her with the Proper Officer.

5.3 The meeting shall be held within 10 Working Days of being called. The Proper Officer will ensure that the requisite notices and summonses are published and sent.

5.4 No extraordinary meeting of the Authority may be called unless it is proposed to transact business which, in accordance with the relevant legislation and these Procedural Rules, may be transacted at that meeting.

6. **PERSON PRESIDING AT MEETINGS OF THE AUTHORITY**

- 6.1 Any power of the Chair in relation to the conduct of a meeting of the Authority may be exercised by the Person Presiding at that meeting.
- 6.2 If it is necessary to choose a Member of the Authority to preside in the absence of the Chair and Deputy Chair, the Proper Officer shall call on a Member of the Authority to move that a Member of the Authority to be named by that Member shall take the chair.
- 6.3 If discussion arises on that motion, the Proper Officer shall exercise all the powers of the Person Presiding to regulate that discussion and to maintain order at the meeting.
- 6.4 The motion and any amendments shall be put to the meeting in accordance with Rule 19 (3) (voting on appointments).

7. **QUORUM OF MEETINGS OF THE AUTHORITY**

- 7.1 No business shall be transacted at a meeting of the Authority unless at least one quarter (rounded up) of the whole number of Members of the Authority are present.
- 7.2 Notwithstanding the provision contained in 7.1, if more than one third of the Members become disqualified at the same time, the quorum for meetings of at least one quarter (rounded up) shall be determined by reference to the number of members remaining qualified and not to the whole number.
- 7.3 The provision contained in 7.2 shall apply only until such time as the number of Members in office is increased to not less than two thirds of the whole number

8. **NOTICE OF AND SUMMONS TO MEETINGS**

- 8.1 The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the provisions in the Information Procedural Rules.
- 8.2 Under normal circumstances, at least 5 clear days before a meeting, the Proper Officer will send a Summons signed by him/her by post or email to every Member of the Authority or leave it at their usual place of residence. The Summons will give the date, time and place of each meeting, and specify the business to be transacted, and will be accompanied by such reports as are available.

9. **QUESTIONS BY MEMBERS**

- 9.1 Subject to Rule 9(2), if a Member of the Authority wishes to ask a question at a meeting of the Authority of:
- (a) the Chair of the Authority;

- (b) the Chair of any Committee;
- (c) a Member of the Authority who is as a result of any action taken by or on behalf of the Authority, a member or director of any company

on any item which is not the subject of a report to that meeting, he/she shall give notice in writing to the Proper Officer of the question at least seven working days before the meeting at which the question is to be asked.

- 9.2 No Member shall give notice of more than two questions for any meeting.
- 9.3 A list of the question of which notice has been given shall be circulated to Members of the Authority at or before the meeting at which they are to be asked.
- 9.4 If the person presiding at the meeting of the Authority considers that by reason of special circumstances it is desirable that a question shall be asked at a meeting of the Authority, although due notice has not been given, and if he/she is satisfied that as much notice as is possible has been given to the person of whom it is to be asked, he/she may permit the question to be asked.

#### 9.5 Response

Every question shall be put and answered without discussion.

An answer may take the form of:

- a) a direct oral answer
- b) where the desired information is in a publication of the MWDA or other published work, a reference to that publication; or
- c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and to all Members of the MWDA.

- 9.6 A Member asking a question under Rule 9.1 may ask one supplementary question of the Member to whom the first question was asked without notice. The supplemental question must arise directly out of the original question or the reply. A second supplementary question may be asked by any other Member. The answer may take the same form as described in Rule 9.5.

## 10. QUESTIONS BY THE PUBLIC

- 10.1 A period of not more than 30 minutes shall be allowed for questions submitted by members of the public.

10.2 Members of the public may ask questions of the Chair at ordinary meetings of the Authority.

10.3 A question may only be asked if:

- (a) notice has been given by delivering it in writing to the Proper Officer seven clear working days preceding the meeting of the Authority at which it is to be asked. Each question must give the name and address of the questioner.

10.4 At any one meeting no person may submit or put more than one question.

10.5 The Proper Officer may reject a question if it:

- does not relate to a matter for which the Authority has responsibility
- is defamatory, frivolous or offensive
- is substantially the same as a question which has been put at a meeting of the Authority in the past six months; or
- requires the disclosure of confidential or exempt information

#### 10.6 Record of Questions

The Proper Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member who is the most appropriate to answer the question. Rejected questions will include reasons for rejection.

Copies of all questions which are accepted by the Proper Officer will be circulated to all Members and will be made available to the public attending the meeting.

#### 10.7 Asking the Question at the Meeting

The Chair will invite the questioner to put the question to the appropriate Member. If a questioner who has submitted a written question is unable to be present, they may nominate in writing another member of the public to ask the question on their behalf. The question will not be put if the questioner or his/her nominee is not present.

The questioner will have two minutes to ask the question.

#### 10.8 Response

Every question shall be put and answered without discussion. The respondent will have five minutes to reply to the initial question.

An answer may take the form of:-

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Authority or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and all Members of the Authority.

10.9 A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his/her original question. The questioner will have two minutes to ask a supplementary question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 10.5.

#### 11. **ELECTION OF CHAIR AND DEPUTY CHAIR OF COMMITTEES**

- (1) The Authority may appoint at their Annual Meeting from among the voting members the Chair and Deputy Chair of a Committee.
- (2) If any appointment possible under the previous paragraph is not made the Committee at their first meeting after the Annual Meeting of the Authority shall before proceeding to any other business elect from their voting members a Chair and Deputy Chair.
- (3) If the Chair and Deputy Chair are absent at a meeting of a Committee shall appoint, from among the voting members present, a person to preside at that meeting.
- (4) If it is necessary for the committee to appoint a Chair, the Proper Officer, or his/her representative, shall call on a member of the committee to move that a voting member of the committee shall take the chair.
- (5) If discussion arises the Proper Officer, or his/her representative, shall exercise the powers of the Chair to regulate that discussion and to maintain order at the meeting.
- (6) The motion and any amendments shall be put to the meeting in accordance with Rule 19 (3) (voting on appointments).

#### 12. **QUORUM OF COMMITTEES**

- (1) No business shall be transacted at any meeting of a Committee unless at least one quarter of the whole number of voting members of the Committee as the case may be are present.

Provided that in no case shall any business be transacted unless at least two voting members are present.

- (2) The provisions of Rule 7 shall apply to a meeting of a Committee at which a quorum is not present as they would apply if it were a meeting of the Authority.

### 13. **MINUTES**

- (1) The Chair will sign the minutes of proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only issue with regard to the minutes that can be discussed is their accuracy.
- (2) Where, in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting, then the next following ordinary meeting will be treated as a suitable meeting for the purposes of signing of minutes.
- (3) At Authority meetings the confirmation of those proceedings, resolutions and reports of every Committee which require the approval of the Authority shall be moved by the Chair or some member of the Committee.
- (4) In presenting the minutes the Chair or other member may request the approval of the Authority to withdraw for further consideration by the Committee concerned or to amend any Committee decision requiring information, provided:
  - (a) the reason for such withdrawal or amendment shall be stated on request; and
  - (b) such amendments shall be limited to matters of detail or accuracy only and shall not purport to alter the substance of the Committee decision.

Any voting by the Authority upon withdrawal or an amendment proposed under this Rule shall be by a show of hands without debate.

- (5) Resolutions of Committees which have been passed in the exercise of delegated powers shall be indicated by the placing of an asterisk opposite such resolution which shall not be open for debate.

### 14. **RECORD OF ATTENDANCE AT MEETINGS**

- (1) All members present during the whole or part of the meeting must sign their names on the attendance sheet before the conclusion of every meeting to assist with the record of attendance.

## 15. **MOTIONS ON NOTICE**

### (1) Notice

Except for motions which can be moved without notice under Rule 16, or which the Chair considers should be considered as a matter of urgency, notice of every motion must be given by delivering it in writing or by electronic mail to the Proper Officer at least 7 clear working days prior to the relevant Authority meeting. These will be entered in a book open to public inspection.

### (1) Scope

Motions must be about matters for which the Authority has a responsibility.

### (3) Motion set out in Agenda

Motions for which notice has been given will be listed on the Agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

- (4) A motion shall only be moved by either the member who gave the notice or by a member authorised in writing by that member.

## 16. **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:-

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the Agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;



- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) to suspend a particular Authority procedural rule;
- (m) to exclude the public and press in accordance with the Information Procedural Rules;
- (n) to not hear further a member named under Rule 20 (1)(a), or to exclude them from the meeting under Rule 20 (1)(b); and
- (o) to give the consent of the Authority where its consent is required.

## 17. **RULES OF DEBATE**

### (1) No Speeches until Motion Seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### (2) Right to Require Motion in Writing

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

### (3) Seconder's Speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### (4) Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Except with the consent of the Authority signified without comment the mover of a motion shall not speak for more than ten minutes (excluding the right of reply) and no other person shall speak for more than five minutes.

### (5) When a Member may Speak Again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;

- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

(6) Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of provided that the Chair may permit two or more amendments to be discussed (but not voted upon) together if he/she thinks that this will facilitate the proper conduct of business.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

(7) Alteration of Motion

- (a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

(8) Withdrawal of Motion/Amendment

A member may withdraw a motion or amendment which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion or amendment after the mover has asked permission to withdraw it unless permission is refused.

(9) Right of Reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

(10) Motions which may be Moved during Debate

When a motion is under debate, no other motion may be moved except the following procedural motions:-

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) a closure motion under Rule 16(k);
- (d) to exclude the public and press in accordance with the Information Procedural Rules;
- (e) to not hear further a member named under Rule 20 (1)(a) or to exclude them from the meeting under Rule 20 (1)(b).

(11) Closure Motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:-
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded, the Chair will give the mover of the original motion a right of reply and then put the procedural motion to the vote; if that motion is carried the original motion shall lapse.
- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply; the original motion or remaining business shall then stand over as uncompleted business to the next meeting.

(12) Point of Order

A member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Authority Rules of Procedural or the law. The member must indicate the rule, or law and the way in which he/she considers it has been broken. The ruling of the Chair on the matter will be final.

(13) Personal Explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

## 18. **PREVIOUS DECISIONS AND MOTIONS**

### (1) **Motion to rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of the Authority within the past six months cannot be moved unless the notice of motion is signed by as many members as would constitute a quorum of the Authority.

### (2) **Motion similar to one Previously Rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of the Authority in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one quarter of Members of the Authority. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## 19. **VOTING**

(1) The method of voting at meetings of the Authority and Committees on any matter will be decided by a simple majority of those Members voting and present.

(2) Any Member who is present when the vote was taken may require that his/her vote or abstention shall be recorded in the minutes by notifying forthwith the Proper Officer of his/her wish.

(3) Where a vote is required on a motion to appoint or elect a Member of the Authority to a position to be filled by the Authority and there are two or more members nominated for that position, the names of all those nominated shall be put to the meeting in alphabetical order of surname. Those entitled to vote shall each vote for only one person. If there is not a majority of those voting in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken and so on, until a majority of votes is given in favour of one person.

(4) If there are an equal number of votes for and against, the Chair will have a second or casting vote.

## 20. **PREVENTION OF DISORDERLY CONDUCT**

(1) If the person presiding is of the opinion that a member has misconducted, or is misconducting himself/herself by persistently disregarding the ruling of the Chair or by behaving irregularly, improperly or offensively or by wilfully obstructing the business of the Authority he/she may notify the meeting of that opinion and may take any of the following courses either separately or in sequence:-

- (a) He/she may move that the member named be not further heard; this motion shall not require to be seconded but shall be put and decided without comment; if it is carried; the member named shall not speak further at that meeting;
  - (b) He/she may move that the member named shall leave the meeting; this motion shall not require to be seconded; but shall be put and decided without comment; if it is carried, the member named shall forthwith leave the meeting;
  - (c) He/she may adjourn the meeting for fifteen minutes or such period as shall seem expedient to him/her.
- (2) If a member of the public interrupts proceedings at any meeting the person presiding shall warn him/her. If he/she continues the interruption the person presiding shall order him/her to leave the room where the meeting is being held. If he/she does not leave the person presiding may order him/her to be removed. If a member of the public persistently creates a disturbance the person presiding may adjourn the meeting for as long as he/she thinks expedient.
  - (3) In the event of general disturbance in any part of the room where the meeting is being held which is open to the public the person presiding may order that part to be cleared and may adjourn the meeting for such period as shall seem expedient to him/her.

21. **SEAL OF THE AUTHORITY**

- (1) The common seal of the Authority shall be kept in a safe place in the custody of the Proper Officer;
- (2) The common seal of the Authority shall be affixed to a document only on the authority of:
  - (a) a resolution of the Authority
  - (b) a resolution of a committee which the Authority has empowered to authorise the use of the seal; and
  - (c) a decision by the Authority, or by a duly authorised committee or officer, to do anything where a document under the common seal is necessary to complete the action.
- (3) The affixing of the common seal shall be attested by the Proper Officer (or his / her authorised representative). An entry of every sealing of a document shall be made and numbered consecutively in a book kept for the purpose, and shall be signed by the person who shall have attested the seal.

22. **AUTHENTICATION OF LEGAL DOCUMENTS**

Any document which is necessary for legal proceedings shall be signed by the Proper Officer or the Monitoring Officer (or their authorised signatory) unless some other person

- (a) has been given the necessary authority by resolution of the Authority;  
or
- (b) is so authorised or required by some enactment.

23. **ARRANGEMENTS FOR DEALING WITH URGENT MATTERS/EMERGENCIES**

(1) Where urgent matters arise and time does not allow for the calling of the committee concerned or Authority there shall be delegated to the Chief Executive all the powers of the Authority to deal therewith, provided that:

- (a) the power is exercised in consultation if possible with the Chair and Deputy Chair of the Authority;
- (b) no decision shall be made which is contrary to a resolution of the Authority or to an established practice; and
- (c) all decisions shall be documented in the form of a minute as soon as possible after they are taken and a copy thereof signed by the Chief Executive and the Chair and Deputy Chair if consulted and sent to the Proper Officer. All decisions taken under these powers will be notified to the Authority.

24. **EXCLUSION OF THE PUBLIC**

- (1) Members of the public and press may only be excluded from the meeting either in accordance with the Information Procedural Rules or under Rule 20.

25. **CANVASSING OF AND RECOMMENDATIONS BY MEMBERS**

- (1) Canvassing of members of the Authority or of any committee of the Authority directly or indirectly for any appointment under the Authority, shall disqualify the candidate concerned for that appointment. The purport of this paragraph shall be included in every advertisement inviting applications for appointments or in the form of application.
- (2) A member of the Authority shall not solicit for any person any appointment under the Authority or give a written testimonial to any person for such appointment or promotion.

26. **RELATIVES OF MEMBERS AND OFFICERS**

- (1) A candidate for any appointment under the Authority who knows that he/she has a close personal relationship with any member or senior officer of the Authority shall when making application disclose that relationship in writing to the Chief Executive.
- (2) Every member and senior officer of the Authority shall disclose to the Chief Executive any relationship known to exist between himself/herself and any person whom he/she knows is a candidate for an appointment under the Authority.

For the purpose of this Procedural Rule, “senior officer” means any officer of the Authority being paid at or above SCP 33.

27. **PETITIONS**

- (1) In this rule “petition” means any written matter directed at the Authority and signed by 25 or more Council Tax Payers and containing a request, representation, complaint or objection which falls within its function but does not include a response to a statutory advertisement of the proposal.
- (2) Petitions relating to matters which are the responsibility of the Appeals Committee shall not be considered.
- (3) When objections and representations about a proposal, which is the subject of a statutory advertisement, are considered, nothing in this rule shall prevent the decision maker from meeting and discussing with the petitioners any petition submitted in response to the statutory advertisement.
- (4) Any petition shall be brought to the attention of the Chair. If the petitioner so requests a deputation comprising not more than 3 persons may present the petition to a panel comprising of the Chair, Lead Member for the issue concerned, another Member and the Chief Executive. That panel shall have a report from an appropriate officer on the issues raised by the petition. One of the petitioner’s deputation or their local elected council representative shall be permitted to address the panel for not more than 5 minutes.
- (5) The Chair shall have discretion to amend the procedural for considering petitions in accordance with this procedural rule, as necessary.
- (6) The Chair shall be responsible for responding to the issues raised by the petition. If the Chair so wishes he/she may refer the petition to the full Authority.



# **ARTICLE 3**

## **FINANCIAL PROCEDURAL RULES**

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## **1. DEFINITIONS**

**1.1** In these Financial Procedure Rules, unless the context otherwise demands, the definitions and interpretations used in the Authority Procedural Rules shall apply.

**1.2** The following terms shall also have the meaning assigned to them:-

- (a) "Levy" means the waste disposal levy set by the Authority pursuant to the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006.
- (b) "Asset" means an item belonging to the Authority that has a value and can include buildings, equipment, vehicles, stocks, stores, money and items of intellectual value.

## **2. FINANCIAL MANAGEMENT**

### **2.1 GENERAL**

- (a) The Authority is responsible for approving the annual Budget, any amendments thereto (subject to any delegated responsibilities) and the determination of the Waste Disposal Levy.
- (b) The Authority is responsible for formulating a policy framework and for monitoring compliance with agreed policy.
- (c) The Authority is responsible for approving the Annual Statement of Accounts.

### **2.2 THE ROLE OF THE CHIEF EXECUTIVE**

- (a) The Chief Executive is responsible for the corporate and overall strategic management of the Authority.
- (b) The Chief Executive shall report to and provide information to the Authority.
- (c) The Chief Executive is responsible for establishing a management structure for the Authority and for monitoring the performance of the organisation. The Chief Executive is responsible for reporting performance to the Authority.
- (d) Together with the Clerk to the Authority, the Chief Executive is responsible for the system of record keeping with regard to the Authority's decisions.

### **2.3 THE ROLE OF THE MONITORING OFFICER**

- (a) The Monitoring Officer shall be the officer appointed in accordance with section 5 of the Local Government and Housing Act 1989, responsible for reporting any actual or potential breaches of the law or maladministration to the Authority.
- (b) The Monitoring Officer is responsible for advising about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- (c) The Monitoring Officer is responsible for maintaining an up-to-date constitution.

### **2.4 THE ROLE OF THE TREASURER TO THE AUTHORITY**

- (a) The Treasurer to the Authority shall be the Director of Finance. The Treasurer shall be responsible for advising the Authority and Members on all financial matters.
- (b) The Treasurer to the Authority (the Treasurer) shall be the officer appointed under section 73 of the Local Government Act 1985 and shall be responsible for the proper financial administration of its financial affairs except where this is properly delegated to officers nominated by the Treasurer, where appropriate. (This is the equivalent of the section 151 Officer appointed to other local authorities under the Local Government Act 1972).
- (c) The Treasurer also has duties to the Authority under section 114 of the Local Government Finance Act 1988 and shall make a statutory report to the Authority if it appears that the Authority or an officer of the Authority:
  - i. has made or is about to make a decision which involves or would involve incurring expenditure which is unlawful;
  - ii. has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency in the part of the Authority;
  - iii. is about to enter an unlawful item of account; or
  - iv. where it appears that the expenditure incurred (or to be incurred) in a financial year is likely to exceed the resources (including borrowing) available to the Authority.

- (d) Where the Treasurer makes such a report then there is a statutory requirement for the report to be considered by the Authority, for the Authority to decide whether it agrees the report and for the Authority to propose any action that needs to be taken as a result.
- (e) The Treasurer is responsible for issuing instructions for safe and efficient arrangements for the receipt of monies payable to, and for payments made by, the Authority.
- (f) The Treasurer is responsible for issuing the statutory Levy demand to Districts after the levy has been approved by the Authority.
- (g) The Treasurer shall be the certifying officer for the purposes of contract certification under the Local Government (Contracts) Act 1997.
- (h) All principal accounting records of the Authority shall be determined and compiled by the Treasurer or as the Treasurer directs. The Treasurer shall exercise overall supervision and control over the form and standard of all financial records, statements and accounts kept by the Authority, and will determine the period for which such documents are kept.
- (i) The Treasurer (together with the Monitoring Officer) is responsible for advising the Authority 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:
  - i. initiating a new policy;
  - ii. committing expenditure in future years to above the budget level;  
and
  - iii. causing the total expenditure to be financed from corporately held reserves to increase by more than a specified amount.

## **2.5 FINANCIAL MANAGEMENT STANDARDS**

- (a) The Treasurer shall ensure the proper administration of the financial affairs of the Authority and shall set the financial management standards and monitor compliance with them. The Treasurer shall ensure proper.
- (b) The Treasurer shall ensure that professional finance practices are established for the Authority and adhered to.
- (c) The Treasurer shall be responsible for selecting accounting policies and ensuring that they are applied consistently.

- (d) The Treasurer is responsible for ensuring that the annual statement of accounts is prepared in accordance with statutory proper accounting practice (therefore, in accordance with the relevant and extant guidance from CIPFA/LASAAC).

## **2.6 MANAGING EXPENDITURE**

- (a) The Chief Executive together with the Treasurer shall arrange for the implementation of effective budgetary control and shall designate relevant accountable officers to manage elements of the budget.
- (b) The Chief Executive and budget managers shall monitor expenditure and income against their revenue and capital budgets.
- (c) The Chief Executive and Budget managers working with the Treasurer shall report on progress against budgets during the year. This shall include such explanation as is required by the Treasurer to explain significant over and under spending against budgets and plans to rectify any unplanned adverse positions.
- (d) The Chief Executive and budget managers are authorised to incur expenditure in accordance with the estimates included in the approved budget.
- (e) Any expenditure or proposed expenditure that has the effect of varying Authority policy must be agreed with the Treasurer and approved by the Authority before being incurred.
- (f) Any expenditure that enters the Authority into future financial commitments for which funding is not yet identified must be agreed by the Treasurer and approved by the Authority before it is incurred and a commitment entered into.
- (g) Temporary virement of revenue expenditure may be allowed on any one Authority approved item in the year of account. This shall be made subject to the following limitations:
  - i. temporary virement of up to £50,000 of revenue expenditure may be allowed, this shall be made by an Administrative decision of the Chief Executive in consultation with the Treasurer;
  - ii. temporary virement of over £50,000 of revenue expenditure may be allowed rarely, this shall be an Executive Decision taken by the Chief Executive in consultation with the Treasurer and subject to scrutiny by Members; and

- iii. temporary virement of over £250,000 may be allowed but only in exceptional circumstances, this shall be a Key Decision of the Authority and subject to a report by the Chief Executive and the Treasurer.
- (h) At the end of each budget year any residual overspending in a budget manager's budget may be carried forward as a first call on the following year's budget. Such a carry forward of overspending shall be subject to approval of the Authority and such decision shall be made taking into account the Authority's financial position as a whole and compared with the individual budget line and the actions taken to manage the budget by the budget manager.

## **2.7 STATUTORY ACCOUNTING, GRANTS AND RETURNS**

- (a) The Treasurer will determine the accounting procedures and records for the Authority and will arrange for the compilation of all accounts and accounting records under his/her direction.
- (b) The Treasurer will:
  - i. draw up the timetable for final accounts preparation;
  - ii. prepare the Authority's statement of accounts in accordance with statutory proper accounting practices and arrange for the publication of the audited accounts in accordance with the statutory timetable;
  - iii. make proper arrangements for the audit of the Authority's accounts in accordance with the Accounts and Audit (England) Regulations 2011 as amended;
  - iv. ensure that all claims for funds, including grants, are made by the due date; and
  - v. ensure the completion and submission of returns.

### **3. FINANCIAL PLANNING**

#### **3.1 PERFORMANCE PLANS**

- (a) The Chief Executive shall be responsible for the development of corporate and service plans and performance information.
- (b) The Treasurer shall be responsible for advising on, and supplying the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

#### **3.2 BUDGETING**

- (a) The Chief Executive will:
  - i. prepare estimates of income and expenditure, in consultation with the Treasurer, to be submitted to the Authority.
  - ii. integrate financial and budget plans into service planning so that budget plans can be supported by financial and non-financial performance measures.
  - iii. when drawing up draft budget requirements, have regard to
    - spending pattern and pressures revealed through the budget monitoring process
    - legal requirements
    - the Authority's policy requirement
    - initiatives already under way
- (b) The Treasurer together with the Chief Executive shall provide budget prospects over the medium term (three years) to assist in strategic planning.
- (c) The Treasurer will advise on methods available for the funding of resources such as grants and borrowing requirements.
- (d) The Chief Executive will work within budget limits and utilise resources allocated in the most efficient, effective and economic way and will continually endeavour to identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.



- (e) The Treasurer together with the Chief Executive shall establish an appropriate framework of budgetary management and control which ensures that:
  - i. Budget managers receive timely information on receipts and payments for each budget head that is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
  - ii. Expenditure is committed only against an Authority approved budget head
  - iii. All officers responsible for committing expenditure comply with relevant guidance and the Authority's financial regulations
  - iv. Each cost centre/ capital project has a single named manager determined by the Chief Executive
  - v. Significant variances from approved budgets are investigated and reported by budget managers
- (f) The Treasurer together with the Chief Executive shall encourage best use of resources by identifying opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of developments or savings options, and in developing financial aspects of service planning.

### **3.3 CAPITAL**

- (a) The Chief Executive in consultation with the Treasurer will prepare an annual capital budget (the capital programme) in line with the capital strategy. The capital budget will identify the Authority's planned capital expenditure for the next three years. The capital budget will identify internal and external sources of finance for the Authority's proposed capital expenditure.
- (b) The Chief Executive shall ensure that capital payments meet the statutory requirements that apply to capital expenditure, in liaison with the Treasurer. The Chief Executive shall monitor and report on the progress of the capital programme during the year and at the end of each year.
- (c) Where there is a material variation from the capital programme, usually slippage, the Chief Executive will provide a report to the Treasurer and for the Authority to confirm the reasons for the variation and the actions that are to be taken to manage and rectify the position.

### **3.4 MAINTENANCE OF RESERVES**

- (a) The Treasurer will advise the Authority annually on prudent levels of reserves. The prudent level of reserves will take into account the risks faced by the Authority that the Treasurer and the Chief Executive are able to identify.
- (b) The Chief Executive and the Treasurer will ensure that resources are only used for the purposes for which they were intended.

### **3.5 PRUDENTIAL INDICATORS**

- (a) The Treasurer shall provide an annual report to the Authority on the level of Prudential Borrowing proposed to support the Authority's capital programme.
- (b) The Treasurer shall report to the Authority on a range of Prudential Indicators as specified by CIPFA in its 'Prudential Code'. The Indicators set the prudent limits for the Authority's borrowing and demonstrate the affordability and impact on the levy of the proposed levels of borrowing. The Prudential Indicators shall show the effect for the next three years of the Authority's activity so that the impact of proposed borrowing over time can be shown to be prudent and affordable.
- (c) The Treasurer shall report to the Authority annually on the actual levels of performance for each of the Prudential Indicators and, where necessary, report in year where the boundaries agreed by the Authority are likely to be breached.

## **4. RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **4.1 RISK MANAGEMENT**

- (a) The Chief Executive shall be responsible for the preparation of the Authority's risk management policy statement and for identifying all potential liabilities.
- (b) The Treasurer shall be responsible for effecting all insurance cover as is considered necessary as a result of that strategy, and negotiating claims and maintaining appropriate records.
- (c) The Chief Executive shall notify the Treasurer immediately of any fire, loss, accident or other event that may give rise to a decision against the Authority's insurer.
- (d) The Chief Executive shall submit any claims on the appropriate form to the Treasurer for processing by the Authority's insurers.
- (e) The Chief Executive shall take responsibility for risk management and ensure that there are regular reviews of risk, notifying the Treasurer of any new risks requiring insurance cover or alterations to existing policies.

### **4.2 INTERNAL CONTROLS**

- (a) The Treasurer shall ensure that an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations are put in place.
- (b) The Chief Executive and the Treasurer shall establish a Primary Assurance Group to review the Authority's governance and internal control arrangements and to ensure they are effective and fit for purpose. The Group will include the Treasurer, the Monitoring Officer, the Clerk and the Director of Operations..
- (c) The Chief Executive shall:
  - i. Manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risk
  - ii. Review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with

guidance from the Treasurer, removing also controls that are unnecessary or not cost or risk effective

- iii. Ensure staff have a clear understanding of the consequences of lack of control.

#### **4.3 AUDIT REQUIREMENTS**

##### **INTERNAL AUDIT**

- (a) The Treasurer shall be responsible for maintaining an independent continuous audit of the financial records, operations and system of control as laid down in the “Public Sector Internal Audit Standards” published by CIPFA and the Institute of Internal Auditors.
- (b) In undertaking this responsibility, the Treasurer or the Treasurer’s authorised representative, shall have authority
  - i. To enter any premises or land without prior notification to examine all records, documents and correspondence relating to any financial and other transactions of the Authority
  - ii. To require and receive such explanations as he/she deems necessary in order to satisfy him/herself on any matter under consideration
  - iii. To require production of any information or items deemed necessary for the efficient and effective conduct of the audit
- (c) Whenever any matter arises which involves, or is thought to involve, or which may suggest the involvement of fraud, corruption or irregularities in the exercise of the Functions of the Authority, or any instances of material error or non-compliance, the Chief Executive shall immediately inform the Treasurer, who shall take the necessary steps to investigate and report on the issue and any actions to rectify any adverse position.
- (d) The Chief Executive shall consider and respond promptly to recommendations in audit reports and ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

##### **EXTERNAL AUDIT**

- (e) The Treasurer will ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work and will ensure that there is effective liaison between external and internal audit.

- (f) The Chief Executive will ensure that all records and systems are up-to-date and available for inspection.

#### **4.4 PREVENTING FRAUD AND CORRUPTION**

- (a) The Treasurer will develop and maintain relevant anti-fraud and anti-corruption policies and monitor the effectiveness of internal control arrangements.
- (b) The Chief Executive will ensure that all suspected irregularities and financial improprieties are reported to the Treasurer.

#### **4.5 ASSETS**

- (a) The Treasurer will be responsible for the preparation of an Asset Management Strategy and ensure that an asset register is maintained for all assets. The register will provide information about the Authority's assets to ensure that they are:
  - i. safeguarded;
  - ii. used efficiently and effectively;
  - iii. adequately maintained; and
  - iv. valued for accounting purposes
- (b) The Chief Executive will ensure:
  - i. that lessees and other prospective occupiers of the Authority's land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Chief Executive in consultation with the Treasurer has been established as appropriate;
  - ii. the proper security of all buildings and other assets under his/her control;
  - iii. that no Authority asset is subject to personal use by an employee without proper authority;
  - iv. the safe custody of vehicles, equipment, furniture and other property belonging to the Authority;
  - v. that assets are identified, their location recorded and that they are appropriately marked and insured;

- vi. there is effective consultation with the Treasurer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;
- vii. cash holdings on premises are kept to a minimum;
- viii. that keys to safes and similar receptacles are controlled by those responsible at all times; loss of any such keys must be reported to the Treasurer as soon as possible; and
- ix. that all employees are aware that they have personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Authority in some way.

## **INVENTORIES**

- (c) The Chief Executive will:
  - i. maintain inventories and record an adequate description of furniture, fittings and equipment;
  - ii. carry out an annual check of all items on the inventory;
  - iii. ensure that attractive and portable items such as portable ICT equipment shall be identified with security markings as belonging to the Authority; and
  - iv. make sure that property is only used in the course of the Authority's business, unless specific permission is given by the Chief Executive.

## **ACQUISITION, ENHANCEMENT, IMPROVEMENT AND DISPOSAL**

- (d) Working with the Treasurer, the Chief Executive shall arrange for the compilation of an Annual Capital Strategy overseen by the Corporate Assets Group. The process will involve setting out:
  - i. how capital projects are identified;
  - ii. the current programme which allows the Authority's requirements to be met;
  - iii. the financing options available; and
  - iv. a method of evaluating option proposals for project delivery.

- (e) The detailed procedures for the disposal of land and property are contained within the Authority's Contract Procedural Rules and should be adhered to. Approval for the disposal of significant assets such as land, buildings, plant and equipment, should be obtained by setting out the criteria for selection of the disposal route as part of an Executive or Key Decision under the Authority's Scheme of Delegation.
- (f) The procedure for the disposal of other assets shall be such as to ensure proper recording and the maximising of benefit to the Authority and subject to approval by the Treasurer. .

#### **INTELLECTUAL PROPERTY**

- (g) All intellectual property created by employees in the course of their duties is, and remains, the property of the Authority. Any disposal of intellectual property must be made in accordance with Contract Procedural Rules. Any article, book or similar material for publication prepared by an employee (relating to their official duties) requires the written approval of the Chief Executive prior to publication.
- (h) The Treasurer will develop and disseminate good practice in relation to the Authority's intellectual property procedures.
- (i) The Chief Executive will ensure that controls are in place to ensure that staff do not carry out private work in Authority time and that staff are aware of the employer's rights with regard to intellectual property.

#### **4.6 TREASURY MANAGEMENT**

- (a) The Treasurer shall arrange the provision of a Treasury Management service governed by good practice as set out in the CIPFA "Code for Treasury Management in Local Authorities".
- (b) The service will be an integral part of the service carried out in the provider organisation for the financial support service as an agent of the Authority and therefore will be controlled under the financial procedures established for that organisation and as agreed with the Treasurer.
- (c) The Chief Executive and Budget Managers shall notify the Treasurer and the appointed agent responsible for Treasury Management of any significant contract payments, dates, amounts and methods of payment as soon as they are known to enable the Authority and its agent to manage its cash flows efficiently.

#### **4.7 STAFFING**

- (a) The Chief Executive shall
  - i. produce an annual staffing budget;
  - ii. ensure that the staffing budget is an accurate forecast of staffing levels;
  - iii. monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff; and
  - iv. ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.



## **5. FINANCIAL SYSTEMS AND PROCEDURES**

### **5.1 GENERAL**

- (a) The Treasurer will determine the Authority's accounting systems and ensure that financial systems are sound. The approval of the Treasurer is required prior to the introduction of new financial systems or changes to existing systems.
- (b) The Chief Executive will ensure that all financial transactions have management trails which allow tracing from accounting records to original documents, the retention of which will be compliant with the Authority's document retention policies.
- (c) The Chief Executive will arrange for the documentation of systems and relevant staff training and will ensure that effective contingency and backup arrangements exist for computer systems.

### **5.2 INCOME AND EXPENDITURE**

#### **INCOME**

- (a) Details of charges for work done, goods supplied or services rendered on behalf of the Authority and of all other income due to the Authority, shall be promptly notified by the Chief Executive to the Treasurer in a form approved by the Treasurer. Such form shall include provision as necessary, for the allocation of income to the relevant head of account. Value Added Tax should be accounted for separately, when applicable.
- (b) All monies received by the Authority shall be acknowledged at once by the issue of an official receipt, voucher or ticket or by another agreed method. All such monies shall be paid intact to the Treasurer or the Treasurer's collecting officer or subject to the Treasurer's instructions, and shall be banked in the Authority's name at such intervals as the Treasurer may determine.
- (c) All accounts, statements or letters requiring monies to be paid to the Authority shall specify that payment must be made to the Treasurer unless agreed otherwise by the Treasurer.
- (d) Sums deemed to be irrecoverable shall only be approved for write off in accordance with the requirements of the Scheme of Delegations to Officers.

- (e) All receipt forms, books, tickets, licences and other documents representing receipts for money shall be in a form approved by the Treasurer.
- (f) The Chief Executive shall establish a charging policy for the supply of goods and services, including the appropriate charging of Value Added Tax, and shall ensure that, where charges are to be made, the levels of fees and charges relating to services shall be reviewed annually and reported to the Authority.

## **EXPENDITURE**

### **ORDERING AND PAYING FOR WORK, GOODS AND SERVICES**

- (g) The purchase of equipment, goods, services and materials shall be effected through the most economical and practical means. The Chief Executive and Budget Holders must ensure that all expenditure is incurred in accordance with the Authority's Contract Procedure Rules. If a corporate contract or arrangement for the provision of particular goods or services exists this must be used. Any exceptions to this must be agreed with the Treasurer.
- (h) No expenditure shall be incurred or committed without approval of the order by the budget manager. All orders for goods and services shall be made through the Authority's Ordering System. Where this is not done the Treasurer shall be informed and the Treasurer's approval shall be required. The use of the Authority's Ordering System requires a budget for the goods and services being ordered, that an order and the subsequent payment against that order is properly authorised and that there is a budget code which ensures the transaction is properly recorded at the time the order is placed.
- (i) In relation to contract payments, any variation in the amount of a contract must be notified to the Treasurer. Where appropriate, the Treasurer may require the matter to be reported to the Authority.
- (j) The Chief Executive or senior officers nominated by the Chief Executive shall be responsible for the examination, verification and certification of requisitions for payment and for the allocation of expenditure to the relevant Budget Manager. Value Added Tax should be accounted for separately where applicable.
- (k) All requisitions for payment shall be signed by the Chief Executive or authorised designated officer and shall include responsibility for verifying, prior to passing to the Treasurer for payment, that:

- i. the goods or services to which the invoice relates have been received;
  - ii. the prices, calculations, trade discounts, other allowances and Value Added Tax are correct, and the invoice has not previously been passed for payment;
  - iii. the expenditure is lawful; and
  - iv. the expenditure complies with the Authority's Procedural Rules.
- (l) The Treasurer may examine, all accounts being passed for payment and shall be entitled to receive such information and explanations as the Treasurer may require. The Treasurer shall pay all accounts which the Treasurer is satisfied represent legal payments, for which there is an approved budget, which have been properly authorised and are in order.
  - (m) The Chief Executive shall, as soon as possible after 31<sup>st</sup> March each year and not later than a date specified by the Treasurer, notify the Treasurer, or agent, of all outstanding expenditure relating to the previous financial year. The Chief Executive shall ensure that all such expenditure relates only to work, goods or services that have been completed or delivered on or before 31<sup>st</sup> March.
  - (n) Invoices shall be passed to the Treasurer in sufficient time to enable payment to the supplier within the agreed payment period. Variations to standard Authority payment terms shall only occur where express approval has been issued by the Treasurer.
  - (o) Proposals to take advantage of early payment discount require approval of the Treasurer prior to such discounts being taken.
  - (p) The Chief Executive must ensure that credit notes, refunds, or other appropriate redress is obtained when payment has been made and goods/services are subsequently deemed to be unsatisfactory.

### **5.3 PAYMENTS TO EMPLOYEES AND MEMBERS**

- (a) The Chief Executive shall maintain a record of the approved establishment of posts required to fulfil the Authority's functions.
- (b) The Chief Executive shall notify the Corporate Services Manager of all appointments, promotions, regradings, resignations, redundancies, dismissals, retirements, suspensions, secondments and absences from duty or any other circumstances affecting the salaries, wages or emoluments of any employee in the Authority.

- (c) The Treasurer shall be responsible for the payment of all payrolls. The Chief Executive shall provide the Treasurer with all information necessary to maintain records of service, superannuation, income tax, national insurance, statutory sick pay, etc. The Chief Executive shall ensure that all requests to pay employees and Members are:
  - i. In respect of authorised employees and Members or in respect of temporary or casual employees.
  - ii. At salary and wage rates in accordance with nationally negotiated rates except where otherwise approved.
- (d) All recipients of a car allowance or other allowance, and who make claims for the reimbursement of expenses shall maintain a record, in such form as the Treasurer may require, of the basis for any such claim. For example mileage and subsistence claims shall be supported by a record of journeys, claims for other expenses shall include such receipts as are required. The record shall be produced in support of any claims for reimbursement.
- (e) The Authority does not have powers to pay any form of remuneration to its Members.
- (f) Members may, however, claim reimbursement from the Authority for travel and subsistence expenses on submission of a claim form for that purpose and supported by records and receipts as necessary.

#### **5.4 TAXATION**

- (a) The Treasurer will complete all Inland Revenue returns regarding PAYE.
- (b) The Treasurer will complete a monthly return of VAT inputs and outputs to HM Customs and Excise and will provide details to the Inland Revenue regarding the Construction Industry Tax Deduction Scheme (if appropriate).
- (c) The Treasurer will maintain up-to-date guidance for employees on taxation issues.
- (d) The Chief Executive will:
  - i. ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with H.M. Customs and Excise Regulations;

- ii. ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax Deduction requirements (if appropriate);
- iii. ensure that all persons employed by the Authority are added to the Authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency; and
- iv. Follow the guidance on taxation issued by the Treasurer.

## **6. EXTERNAL ARRANGEMENTS**

### **6.1 PARTNERSHIPS**

- (a) The Authority shall have specific responsibilities if it should make a partnership arrangement with external companies, public organisations and community and voluntary groups. Partnership arrangements are defined as any arrangement with another organisation which places responsibility for the carrying out of duties on behalf of the Authority.
  - i. the nature of the partnership should be clearly stated in a partnership agreement and should include formal agreement and acceptance of each partner's roles and responsibilities;
  - ii. the agreement should be subject to a risk management process to establish and manage all known risks;
  - iii. standards of financial administration should be consistent with those operated by the Authority. This may mean that Financial Regulations and tendering/contract procedures will need to be shared with the partner organisations.

However this requirement needs to be considered in the context of risk and potential loss:

- i. a performance monitoring framework will need to be established to ensure the objectives of the partnership are met;
  - ii. a formal reporting procedure should be established to report to the Authority both the financial and performance position; and
  - iii. access protocols to records and documents should be established to ensure effective Audit and inspections processes
- (b) The Treasurer will advise on effective controls to ensure that resources are not wasted and that accounting arrangements are satisfactory.

- (c) The Chief Executive will maintain a register of all contracts entered into with external bodies after prior consultation with the Treasurer.
- (d) The Chief Executive will ensure that all partnership arrangements are properly documented, do not impact adversely upon the services provided by the Authority and that a risk assessment appraisal has been undertaken, in conjunction with the Treasurer, prior to entering such agreements. Where monies are given in advance of goods and services being received, the Chief Executive shall ensure that an appropriate service level agreement is in place between the Authority and the third party, with associated caveats on spends and deliverables being achieved. Should these deliverables not be attained, a mechanism to allow recompense to the Authority must be agreed prior to any monies being issued.

## **6.2 EXTERNAL FUNDING**

- (a) The Treasurer with the Chief Executive will ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts.
- (b) The Chief Executive will ensure that match funding requirements are considered prior to entering into agreement and that future budgets reflect these requirements.
- (c) The Chief Executive will ensure that all claims for funds are made by the due date and that all expenditure is properly incurred and recorded.

# **ARTICLE 4**

## **CONTRACT PROCEDURAL RULES**

## 1. INTRODUCTION

### (i) Scope

These rules relate to the supply of services, the purchase, leasing and hiring of goods and the execution of works.

### (ii) Interpretation

Unless the context otherwise requires, in these Contract Procedural Rules, the following terms have the following meaning:-

“Clerk” means the Clerk to the Authority or his/her duly authorised representative.

“Contract” means any agreement for:-

- (a) the supply of services to or for the Authority including the use of consultants but excluding the use of Counsel instructed by the Monitoring Officer.
- (b) The purchase, leasing or hiring of goods by the Authority PROVIDING THAT arrangements involving hire purchase, finance leases or operating leases shall only be entered into in accordance with arrangements approved by the Treasurer; and
- (c) The execution of works for the Authority.

“Chief Executive” means the Chief Executive of the Authority or his/her duly authorised representative.

“Monitoring Officer” means the officer appointed in accordance with section 5 of the Local Government and Housing Act 1989 and responsible for the provision of legal services to the Authority or his/her duly authorised representative.

“Treasurer” means the Officer the officer appointed under section 73 of the Local Government Act 1985, responsible for the proper administration of the financial affairs of the Authority or his/her duly authorised representative.

“Consultant” means an external service provider appointed to advise and act for the Authority.



(iii) Grouping of Contracts

A contract may include a series of transactions for the purchase of goods and services or execution of works which are of the same type so that the estimated value of the sum total of this series of transactions should be taken as estimated contract price for the purpose of these Rules. Where relevant, the total annual value of goods and services or work executed of the same nature and required within the contract period shall be taken as the estimated contract price.

Officers shall have regard to the most appropriate packaging of contracts to achieve the greatest value for money and the most effective arrangements. A contract must not be divided into smaller contracts with the aim of avoiding the application of these Contract Procedure Rules in full and the application of UK public contracts regulations or EU public procurement directives.

(iv) Adequate Budget Provision

Contracts shall not be entered into unless there is adequate provision in the appropriate budget, or approval has been obtained to use balances.

(v) Appointment of Consultants

In cases where a Consultant is employed to act on behalf of the Authority in the tendering and letting of contracts the requirement to comply with these Rules shall be included in the Consultant's Terms of Appointment.

**2. COMPLIANCE WITH CONTRACTS PROCEDURE RULES**

Every contract entered into by and on behalf of the Authority, shall be made in compliance with these Rules.

**3. EXTERNAL CONTROLS**

Wherever mandatory legislation or directives conflict with these Rules, the legislation or directives will prevail.

#### **4. METHODS OF LETTING CONTRACTS**

##### General Provisions

- i) Contracts where the estimated value or amount is £20,000 or more shall be tendered and let by the Chief Executive.
- ii) Where the Authority maintains an Approved List or Lists in accordance with Rule 7, all reasonable efforts shall be made to invite tenders from persons contained therein.
- iii) Where the estimated value or amount of the contract or sub-contract for the supply of goods or materials or services or the execution of work is:-
  - a) less than £5000, the Chief Executive shall ensure that value for money is obtained and, in consultation with the Treasurer, shall establish staff instructions for the letting of contracts and placing of orders;
  - b) £5000 or more but less than £20,000 and alternative prices are available, a minimum number of three separate written quotations or tenders shall be invited. The Chief Executive, in consultation with the Treasurer, shall establish staff instructions for the letting of contracts and placing of orders;
  - c) £20,000 or more but less than £100,000 and alternative prices are available, competitive tenders shall be invited and the procedures referred to in Rule 5 and Rule 11 adopted;
  - d) £100,000 or more, the contract or sub-contract shall be let in accordance with Rules 6, 9 and 11 except to the extent that where such Rules conflict with relevant provisions contained in U.K Public Contract Regulations or E.U Public Procurement Directives, the provisions of the Regulations or Directives shall apply.
- iv) Where tenders or quotations are requested for the supply of goods, materials or services or for the execution of works estimated to be less than £20,000 and where the lowest tender or quotation received or accepted is £20,000 or more, the Treasurer shall be advised of the tenderers and tender or quotation sums for record purposes.
- v) Where the value or amount is estimated to be less than £100,000 the Chief Executive shall ensure that value for money in terms of economy, efficiency and effectiveness is obtained, that where appropriate the Authority's approved contractors or suppliers are

used and that the expenditure is incurred in accordance with the Authority's established procedures.

- vi) Where a sub-contractor or supplier is to be nominated to a main contractor, the terms of the invitation to tender shall require an undertaking by the tenderer that if it is selected it will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against its own obligations under the main contract in relation to the work or goods included in the sub-contract.
- vii) Nominated sub-contracts where the estimated value is estimated to be £5000 or more but less than £20,000 shall be awarded in accordance with the procedure outlined in Rule 4(iii)(b) unless the Chief Executive decides it is not reasonably practicable to obtain competitive quotations or tenders.
- viii) Nominated sub-contracts where the estimated value is likely to be £20,000 or more but less than £100,000 shall be awarded in accordance with the procedure outlined in Rule 5 unless the Chief Executive decides it is not reasonably practicable to obtain competitive tenders.
- ix) Nominated sub-contracts where the estimated value is likely to be £100,000 or more shall be awarded in accordance with the procedure outlined in Rule 6 unless the Chief Executive, in consultation with the Treasurer, determines that in respect of any particular nomination it is not reasonably practicable to obtain competitive tenders.

## **5. TENDERING PROCEDURE FOR CONTRACTS OF £20,000 OR MORE BUT LESS THAN £100,000**

- i) In respect of the letting of contracts for the supply of goods, materials or services or for the execution of works where the estimated value or amount is £20,000 or more but less than £100,000, the following procedures shall apply:-
  - a) where sufficient competitive prices are available contracts shall be subject to the invitation of a minimum of four tenders, which so far as is practicable should be obtained from persons who, or firms which are, on the approved list;
  - b) letters inviting tenders shall indicate the last day and time of their return;

- c) a label addressed to the Chief Executive, followed by the last date and time of return and bearing the word "TENDER....." followed by the subject to which it refers shall be enclosed with all letters inviting tenders; envelopes shall bear no other distinguishing mark;
  - d) all envelopes shall be kept by the Chief Executive until the last day of return when the envelopes will be opened by him in the presence of the Clerk. The tenders will be dated and initialled by the two officers present;
  - e) a record will be kept by the Chief Executive of all such tenders received by him;
  - f) late tenders may be opened only if no other tender for that item has been opened and the Chief Executive is satisfied that there is an acceptable explanation for late delivery of the tender;
  - g) late tenders which are not considered shall be returned to the sender;
  - h) Where the lowest tender received or where the tender offer accepted under these procedures is £100,000 or more, the Treasurer shall be advised for record purposes of the estimated price, the suppliers or contractors invited to tender and the prices submitted.
- ii) In respect of contracts for the supply of goods, materials or services or for the execution of works the Chief Executive shall, following the opening of the tenders, be authorised to scrutinise the tenders and communicate with the tenderers in order to obtain information on technical and contractual matters which may be necessary for tender evaluation.
- iii) Negotiations with any potential supplier or contractor on prices and/or specification, after the tenders have been opened, must be conducted in accordance with the Authority's agreed procedure on post-tender negotiation and on a formal and confidential basis in the presence of at least two officers of the Authority. A formal record must be kept and retained of all such discussions and decisions. No information as to the contents of any tender shall be communicated to the said potential supplier or contractor.

- iv) The Chief Executive may authorise in writing exceptions to Rule 5 (i) in cases of urgency or other specific circumstances. It is the responsibility of the Chief Executive to ensure that the reasons for any exceptions are properly stated and reported to the Clerk.

## **6. TENDERS FOR CONTRACTS OF £100,000 OR ABOVE**

A contract for the supply of goods, materials or services or for the execution of works where the estimated value is £100,000 or more shall be let by tender in one of the following ways:-

- i) (a) Approved List in accordance with Rule 7; or  
  
(b) Public Notice in accordance with Rule 8; or  
  
(c) For purposes for which there are no approved list, and where in the opinion of the Chief Executive public notice is not appropriate, tenders may be invited from selected firms known by the Chief Executive to be suitable, after consultation with the Monitoring Officer and Treasurer; or
- ii) Any combination of (a), (b) and (c) above as the Chief Executive shall determine in accordance with the Scheme of Delegation.

Prospective tenderers in 6(i) and 6(ii) above shall not be invited to tender unless the satisfactory financial standing of the tenderers is confirmed by the Treasurer.

- iii) A contract for the supply of goods, materials or services or for the execution of works where the estimated value exceeds the thresholds set out in U.K Public Contract Regulations or E.U Public Procurement Directives shall be let in accordance with the provisions of the Regulations or Directives.

## **7. THE APPROVED LIST**

- i) The Chief Executive may determine that a list or lists shall be kept of persons who, or firms which, may be invited to tender for contracts for the supply of goods, materials or services or the execution of work of specified categories, values or amounts.
- ii) The said list shall:-

- (a) contain the names of all persons who wish to be included in it and are approved by the Chief Executive and Treasurer;
  - (b) indicate whether the person or firm named in it is approved for contracts for all or only some of the specified values, amounts or categories.
- iii) At least four weeks before a list is first compiled, notices inviting applications for inclusion in it, shall be published in one or more local newspapers circulating in the district and in one or more newspapers or journals circulating among such persons who undertake contracts of the specified values, amounts or categories.
- iv) The Approved List may be amended from time to time by the Chief Executive, in consultation with the relevant Portfolio Member by the addition or deletion of names or firms.
- v) Where invitation to tender for a contract of £100,000 or more is limited to persons whose name appears on the list maintained under this Rule, an invitation to tender for that contract shall be sent to at least four of those persons as selected.
- vi) The Chief Executive shall be responsible for selecting tenderers from a Select List which has been drawn from the Approved List in accordance with agreed procedures.

## **8. PUBLIC NOTICE TO TENDER**

- i) This rule shall have effect where the estimated value is likely to be £100,000 or more and where there is no approved list, and where invitation to tender may be limited to persons who reply to a public notice except it shall not apply where contracts are subject to U.K Public Contract Regulations or E.U Public Procurement Directives.
- ii) At least 10 days notice shall be given seeking applications for invitation to tender and setting out the particulars of the proposed contract. Such notice to be publicised by an appropriate means locally in the Merseyside or relevant district area, and within appropriate media accessible to such persons as undertake such contracts.
- iii) The Chief Executive shall select, in consultation with the Treasurer, not less than four persons to be invited to tender or where less than four have applied who are suitable shall indicate that all those who are suitable shall be invited to tender.

- iv) Invitation to tender may be limited to those persons who have responded to a public notice or may be extended in accordance with Rule 6 (ii) above.

## **9. TENDERING PROCEDURE FOR CONTRACTS OF £100,000 OR ABOVE**

Where tenders are invited in accordance with Rule 6 the following procedures shall apply:-

- i) Letters inviting tenders or quotations shall indicate the last day and time of their return, a label addressed to the clerk followed by the last date of return and bearing the word "TENDER....." followed by the subject to which it refers shall be enclosed with all letters inviting tenders or quotations; envelopes shall bear no other distinguishing mark;
- ii) Envelopes shall be returned to and remain in the custody of the Clerk until the appointed time for their opening. A record shall be kept by him of all tenders received and the date and time of their receipt;
- iii) The tenders shall be opened in the presence of the Clerk, the Treasurer, the Chief Executive and the Chairman (or their respective nominees);
- iv) The Clerk shall keep a record of tenders opened listing the names of tenderers and their quoted prices. The Clerk shall authorise the Chief Executive to scrutinise the documents and communicate with the tenderers in same manner outlined in Rule 5(ii) or 5(iii);
  - a) Late tenders may be considered at the discretion of the Clerk, in consultation with the persons present and referred to in Rule (iii) above, and only if no other tender for that item has been opened and the Clerk is satisfied that there is an acceptable explanation for late delivery of the tender;

## **10. EXCEPTIONS TO CONTRACT PROCEDURE RULES**

- i) The tendering procedures will not apply to:-
  - a) The acquisition or disposal of any interest in land or property and stocks and equipment incidental thereto.

- b) The supply of goods, materials or services which are only obtainable from one contractor where the Chief Executive is satisfied there is no reasonably satisfactory alternative.
  - c) The supply of goods, materials or services by a central or local government purchasing organisation or by or on behalf of any consortium, association or similar body of which the Authority is a member provided that in the latter situation the supply is in accordance with the method prescribed by that body.
  - d) The execution of works of a specialised nature which are carried out only by one contractor and where the Chief Executive is satisfied that there is no reasonably satisfactory alternative.
  - e) The execution of work or the supply of services which must be carried out by a particular public utility undertaking, statutory undertaker, local authority or similar body.
- ii) All exceptions other than those listed in 10 i) shall be authorised:-
- a) for contracts where the estimated value or amount is less than £100,000, by an Administrative Decision taken by the Chief Executive in accordance with the Scheme of Delegation;
  - b) For contracts where the estimated value or amount is £100,000 or more, by an Executive Decision or Key Decision in accordance with the Scheme of Delegation.
- iii) The Chief Executive shall keep a record justifying any exceptions under 10. i) b) and d).

## **11. ACCEPTANCE OF QUOTATIONS AND TENDERS**

- i) The appropriate tender for all values of contracts, to be accepted in accordance with this Contract Procedure Rule, will normally be the lowest tender if payment is to be made by the Authority, or the highest tender if payment is to be received by the Authority, or the most economically advantageous tender established in accordance with agreed procedures and taking into account the Authority's Sustainable Procurement Policy.
- ii) Where the estimated value or amount is less than £20,000, acceptance of an appropriate quotation or tender will be in writing by the Chief Executive.



- iii) Where the estimated value is £20,000 or more but less than £100,000, acceptance of an appropriate tender will be by the Chief Executive in accordance with agreed procedures. Where any other tender is recommended for acceptance, the reasons for doing so will be reported in writing to the Clerk.
- iv) Where the estimated value is £100,000 or more, acceptance of an appropriate tender will be by the Chief Executive only where it satisfies para 11 i) above and in accordance with agreed procedures. Where any other tender is recommended for acceptance, it will be by way of an Executive Decision taken by the Chief Executive in accordance with the Scheme of Delegation.
- v)

## **12. DISQUALIFICATIONS OF TENDERS**

At the discretion of the Chief Executive, in consultation with the Monitoring Officer, tenders may not be considered if they are in any way uncertain or if the tender documents have been altered or amended. The relevant reasons for such decisions shall be recorded in the Register of Tenders.

## **13. WITHDRAWAL OF TENDER**

In the event of any person or firm withdrawing a tender or declining to execute a formal contract on being called upon to do so after his or its tender has been accepted (whether accepted subject to the Authority's approval or not), no further tender from such person or firm shall be considered for a period of two years unless the Clerk so determines.

## **14. FORM OF CONTRACT**

- i) Subject to this Rule, the form of contract for the execution of works or the supply of goods, materials or services will be decided by the Chief Executive. Details will be supplied to tenderers in the tender documents.
- ii) All contracts must be in writing with the exception of:

- a) contracts for the supply of goods, services and materials, and works contracts below £20,000 in value;
- b) contracts where the Chief Executive is satisfied that there is an urgent need for the execution of the works or the supply of goods, materials or services which does not permit time for the execution of a written contract but, in this case, a contract must (if otherwise required) be put into writing as soon as practicable;

All contracts in writing which are £20,000 and above shall, with the exception of those under seal be signed by at least two officers of the Authority.

iii) All contracts of £100,000 or more shall be under seal unless:

- a) the Monitoring Officer so agrees: or
- b) Rule 14 (ii) (b) applies: or
- c) The contract is for the supply of goods or services on an annual basis.

iv) Every contract in writing or under seal shall specify:

- a) The work, materials, matters or things to be furnished had or done;
- b) The price to be paid with a statement of discounts or other reductions;
- c) The time or times within which the contract is to be performed and, where appropriate, the amount of liquidated damages which may otherwise become due;
- d) The conditions of the contract which are applicable.

v) Where a certificate under the Local Government (Contracts) Act 1997 must be issued, the Treasurer shall be the duly authorised certifying officer and will need to be satisfied that the Authority has the powers to enter into the contract and that it is exercising its powers properly.

vi) Where a contract is not in writing or, where appropriate, is not under seal the reasons for the exception shall be recorded and be available for inspection by members of the Authority.

- vii) Where appropriate, the Chief Executive, in consultation with the Treasurer, shall determine whether sufficient security should be taken for the due performance of every such contract.
- viii) It shall be a condition of any contract between the Authority and any person (not being an officer of the Authority) who is required to supervise a contract on the Authority's behalf that, in relation to such contract, he or she shall comply with the requirements of these Rules, and with the Authority's Financial Procedure Rules, as if he or she was an Officer of the Authority.
- ix) Where appropriate, the Chief Executive, in consultation with the Data Protection Administrator, if necessary, shall ensure the inclusion of clauses to meet the requirements of Data Protection legislation.

## **15. CLAUSES COMMON TO ALL CONTRACTS**

In every contract in writing or under seal for the execution of work or the supply of goods, materials or services clauses to cover the following matters will be included:-

- i) a clause to prevent a contractor from transferring or assigning directly or indirectly the contract without the written consent of the Authority and to prevent the sub-let of the contract without the Authority's written consent except insofar as it relates to the supply of patent or proprietary articles, raw materials or material products;
- ii)
- iii) a clause to secure that the Authority shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Authority or for showing or forbearing to show any favour or disfavour to any person in relation to the contract or any other contract with the Authority or if the like acts shall have been done by any person employed by it or acting on its behalf (whether with or without the knowledge of the contractor) or if in relation to any contract with the Authority the contractor or any

person employed by it or acting on its behalf shall have committed any offence under the Bribery Act 2010 or any superseding legislation, or shall have given any fee or reward the receipt of which is an offence under the sub-section (2) or (3) of Section 117 of the Local Government Act 1972;

- iv) a clause to require that where an appropriate British Standard specification or British Code of Practice issued by the British Standards Institute Eurostandard or similar national standards of other EC member states provided that they meet the British equivalent is current at the date of tender, unless there is good sufficient reason to the contrary, all goods and materials supplied or used and all workmanship shall be in accordance with that standard or such higher standard as may be specified;
- v) a clause to require a contractor to take all such precautions as are necessary to protect the health and safety of all persons employed by it and others to comply with the requirements of all Health and Safety Legislation and of any other Acts, Regulations, Orders or Codes of Guidance pertaining to the health and safety of employed persons or members of the public who may be affected by the contract;
- vi) a clause to require a contractor to take into account, where considered applicable by the Authority, the requirements of the European Acquired Rights Directive and/or Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014;
- vii) a clause or clauses to ensure adequate protection is afforded to personal information under the control of the Authority as Data Controller to which a contractor may have access in the course of fulfilling the terms of a contract and specifically that a contractor must agree to abide by specific terms in relation to its handling of such personal information in performance of the contract;

- viii) a clause requiring the contractor to provide information to the Authority in order for the Authority to fulfil its obligations under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 and a clause requiring the contractor to pass to the Authority any requests for information it receives for information held on behalf of the Authority;
- ix) such other clauses as the Monitoring Officer shall determine, whether generally or in relation to a specific contract.

# **ARTICLE 5**

## **INFORMATION PROCEDURAL RULES**

**1. SCOPE AND DEFINITIONS**

These rules apply to all meetings of the Authority and its committees. The terms used in these Procedural Rules are as defined in the Authority Procedural Rules, unless the context otherwise demands

**2. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings, subject only to the exceptions in these rules.

**3. NOTICE OF MEETING**

The Authority will, subject to Rule 4.2, give at least five clear days' notice of any meetings.

**4. ACCESS TO AGENDA AND REPORTS BEFORE MEETING**

4.1 The Authority will make copies of the agenda and all reports as are available, open to the public available for inspection at its offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the Summons has been sent out, the proper officer shall make each such report available to the public as soon as the report is completed and sent to Members) will be open to inspection from the time the item was added to the agenda

4.2 A meeting may be called at shorter notice in exceptional circumstances as determined by the Proper Officer, but the agenda and reports must be made available for public inspection from the time the meeting is convened.

**5. SUPPLY OF COPIES**

The Authority will supply copies of any agenda, reports and background papers which are open to public inspection, to any person on payment of a charge for postage and any other costs.

**6. ACCESS TO MINUTES ETC. AFTER THE MEETING**

The Authority will make available copies of the following for up to six years after a meeting:-

- (a) the minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) the agenda for the meeting; and
- (c) reports relating to items when the meeting was open to the public.

**7. REPORTS AND BACKGROUND PAPERS**

**7.1 Authority Reports**

Reports prepared by officers in relation to Key Decisions and included in the agenda for a meeting will provide Members with sufficient detail for Members to take an informed decision. Reports will be in a format approved by the Proper Officer and will normally include:

- i. Title and Unique Reference
- ii. Recommendation (First Page)
- iii. Any restriction on publication (Exclusion of the Public)
- iv. Meeting Date
- v. Purpose of the Report
- vi. Background



- vii. Body of the Report
- viii. Risk Implications
- ix. HR Implications
- x. Environmental Implications
- xi. Financial Implications
- xii. Legal Implications
- xiii. Conclusion
- xiv. Contact Officer
- xv. List of Background Papers

## 7.2 List of Background Papers

Every report will contain a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the officer responsible for the report:-

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or Confidential Information (as defined in Rules 8.3 and 8.4).

## 7.3 Public Inspection of Background Papers

The Authority will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## 8. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

### 8.1 Confidential Information - Requirement to Exclude Public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### 8.2 Exempt Information - Discretion to Exclude Public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1988 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 8.3 Meaning of Confidential Information

Confidential information means information given to the Authority by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed because it is prohibited by an enactment or a Court Order.

### 8.4 Meaning of Exempt Information

Exempt information means information falling within the following 7 categories (subject to any condition) if the public interest in maintaining the exemption outweighs the public interest in disclosing the information:-

	<b>Category</b>	<b>Condition</b>
1.	Information relating to any individual	Information is not exempt unless it relates to, and is recognisable as, referring to a particular individual.

	<b>Category</b>	<b>Condition</b>
2.	Information which is likely to reveal the identity of an individual	Information is not exempt unless it is likely to be recognisable as referring to a particular individual.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information is not exempt if it must be registered under various statutes.
4.	Information relating to any consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	Information within Paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the Authority in those or any other consultations or negotiations in connection with a labour relations matter.  "Labour relations matters" are as specified in Paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
6.	Information which reveals that the authority proposes - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	Information within Paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.
7.	Information relating to any action taken or to be taken	

	<b>Category</b>	<b>Condition</b>
	in connection with the prevention, investigation or prosecution of crime	

**9. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Monitoring Officer thinks fit, the Authority may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 8, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed.

**10. PROCEDURE ON THE MAKING OF KEY DECISIONS**

A Key Decision may not be taken unless:-

- (a) a notice (here called a forward plan) has been published in connection with the matter in question; and
- (b) at least 3 clear days have elapsed since the publication of the forward plan.

**11. THE FORWARD PLAN**

**11.1 Period of Forward Plan**

Forward plans will be prepared by the Chief Executive to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan. The most recent forward plan shall be taken to have superseded each and every earlier plan.

**11.2 Contents of Forward Plan**

The forward plan will contain matters which the Chief Executive has reason to believe will be subject of a key decision to be taken by the Authority. It will describe

the following particulars insofar as the information is available or might reasonably be obtained:-

- (a) the matter in respect of which a decision is to be made;
- (b) the date on which, or the period within which, the decision will be taken;
- (c) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (d) the means by which any such consultation is proposed to be undertaken;
- (e) the steps any person might take who wishes to make representations to the Authority about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (f) a list of the documents submitted to the decision taker for consideration in relation to the matter.

Exempt information need not be included in a forward plan and confidential information cannot be included.

## 12. **GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, the decision may still be taken for reasons of urgency (as defined in the Authority Procedural Rules (Rule 4.3.4 and 23) or if the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates. Where such a decision is taken, it must be taken at a public meeting unless Confidential Information or Exempt Information will be considered.

### 13. **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

13.1 In addition to the rights of Members of the Authority under Section 100F of the 1972 Act, but subject to paragraph 2 below, the following persons shall be entitled on application to the Proper Officer, to inspect any documents or have access to other information of the following descriptions:

- (a) any Member of the Authority; any document in the possession or under the control of the Authority in relation to which a Committee, of which he/she is a member, may discharge a function of the Authority;
- (b) any Member of the Authority; any document or other recorded information in the possession or under the control of the Authority, access to which is necessary for the proper discharge of his/her functions as a Member of the Authority provided that:
  - (i) no person shall be entitled to inspect any document or have access to any information relating to any matter in which he/she has a personal or prejudicial interest and which would have prohibited the Member(s) from speaking and voting on a matter at a meeting;
  - (ii) a person may be refused the right to inspect a document which it is not necessary for him/her to inspect for the purposes of the proper discharge of his/her function as a Member of the Committee in question, if there is good reason why such inspection should be refused;
  - (iii) access to information not in the form of a document need not be given where the cost of providing the access is unreasonably high or

during such period as the giving of access would unreasonably disrupt the work of the Authority;

- (iv) where information which is provided to a Member (either upon request or as part of a report under consideration by the Authority or a committee of the Authority) is confidential to the Authority then that information will be kept confidential by the Member and will not be disclosed to any other person or body.

13.2 In the case of any document other than a document to which the rights under Section 100F of the 1972 Act apply and in any case of information which is not in the form of a document, if the Proper Officer considers that access to any document or other information is not necessary for the proper discharge of the functions (as a Member of the Authority or as a Member of a Committee as the case may be) of the person requesting such access, and there is good reason why access should be refused, he/she may refuse the person concerned access to the document in question.

13.3 Where a person inspects a document under the rights conferred by Section 100F of the 1972 Act or this Procedure Rule and the Authority may lawfully make a copy of that document, he/she shall be entitled on request to be given a copy of that document provided that:

- a) a reasonable charge shall be made for the copy unless the Proper Officer otherwise directs;
- b) a copy may be refused if the Proper Officer considers that it is impracticable to make a copy.

- 13.4 A Member of the Authority may attend, as an observer, any meeting of a Committee, of which he/she is not a member, whether in public or private business and the attendance of that member at that meeting may be recorded in the minutes.
- 13.5 With the agreement of the person presiding at a meeting of a Committee, any member attending as in 13.4 above may be allowed to speak on any item before the Committee, but not vote, such agreement to be sought prior to the commencement of that meeting.



# **ARTICLE 6**

## **CODE OF CONDUCT FOR MEMBERS**

The Merseyside Waste Disposal Authority (“the authority”) has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members.

The Code has been adopted voluntarily and is based on the following core principles of public life - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It sets out general obligations about the standards of conduct expected of members of the authority, together with provisions about registering and declaring interests.

## **Interpretation**

In this Code:-

“member” includes a co-opted member.

“meeting” means any meeting of:

- (a) the Authority or any of its committees;
- (b) any briefing by officers; or
- (c) any site visit to do with business of the Authority

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members.

## **General obligations**

When acting in your role as a member of this authority you must act in accordance with the following obligations:

### *Selflessness*

You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

### *Integrity*

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

### *Objectivity*

When carrying out your public duties you must make all choices, such as making

public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the authority's officers, into consideration.

#### *Accountability*

You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including by local residents.

#### *Openness*

(a) You must be as open and transparent as possible about your decisions and actions and the decisions and actions of your authority. You should be prepared to give reasons for those decisions and actions. You must not prevent anyone getting information that they are entitled to by law.

(b) Where the law or the wider public interest requires it, you must not disclose confidential information or information to which public access is restricted.

#### *Honesty*

(a) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out below.

(b) You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use by others of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

#### *Respect for others*

(a) You must treat others with respect. You should engage with colleagues and staff in a manner that underpins mutual respect, essential to good local government.

(b) You must not do anything which may cause your authority to breach any equality laws.

(c) You must not compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the authority.

(d) You must not bully any person, including other councillors, officers of the authority or members of the public.

#### *Leadership*

You must promote and support high standards of conduct when serving as member or co-opted member of the authority, by leadership and example, championing the interests of the community.

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

### **Registration of Interests**

You must within 28 days of:

- (a) this Code being adopted by this authority; or
- (b) your election or appointment to office (where that is later)

Register with the Monitoring Officer the interests which fall within the categories set out in Appendix A (Disclosable Pecuniary Interests) and Appendix B (Other Disclosable Interests).

You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest in Appendix A or B, or of any change to a registered interest, notify the Monitoring Officer of that new interest or change.

### **Declaring of Interests and Participation in Meetings**

If you are present at a meeting and you have a Disclosable Pecuniary Interest as set out in Appendix A

- (a) you must not participate in any discussion of the matter at the meeting and you must not vote on the matter;
- (b) you must make a verbal declaration of that interest if an item of business affects or relates to that interest, at or before the item is considered or as soon as the interest becomes apparent;
- (c) you must leave the room where the meeting is held during any discussion or vote;
- (d) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Where a matter arises at a meeting which relates to an interest in Appendix B

- (a) you must not vote on the matter;
- (b) you may speak on the matter only if members of the public are allowed to speak at the meeting;
- (c) you must declare your interest if you speak on the matter at the meeting or if the interest is not already on your register of interests or if you have not notified the Monitoring Officer of it. Otherwise, you do not need to declare the interest at the meeting.

Where a matter arises at a meeting which relates to or is likely to affect any of the interests listed in Appendix A, but in respect of a member of your family (other than your spouse/partner) or a friend or close associate of yours

- (a) you must declare the interest;

- (b) you must not vote on the matter;
- (c) you may speak on the matter only if members of the public are allowed to speak at the meeting.

### **Sensitive interests**

Where you consider that disclosure of the details of an interest could lead to you or a person connected with you being subject to violence or intimidation and the Monitoring Officer agrees that it is a “sensitive interest”, you need only declare the fact that you have an interest but not the details of that interest. Copies of the public register of interests may state you have an interest the details of which are withheld.

### **Gifts and Hospitality**

There will be no requirement for you to declare or register any gifts and hospitality but DO NOT accept any gifts in excess of £50 (fifty pounds).

## APPENDIX A

### DISCLOSABLE PECUNIARY INTERESTS

This code requires members to register, disclose and not to participate in respect of any matter in which a member has a “Disclosable Pecuniary Interest” as defined in Chapter 7 of the Localism Act 2011. Disclosable Pecuniary Interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Whilst Merseyside Waste Disposal Authority is not listed as a “Relevant Authority” in the above act, the following list of Disclosable Pecuniary Interests should be treated as if it were for the purposes of this Code.

A Disclosable Pecuniary Interest is an interest of you (i.e. the member) or of your partner (which means spouse or civil partner or a person with whom you are living as husband or wife, or as if you are civil partners) within the categories below\*:

<b><i>Subject</i></b>	<b><i>Prescribed description</i></b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a Member of a relevant authority in carrying out duties as a Member, or towards the election expenses of a/the Member of the relevant authority. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest*) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.  <i>*this means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest</i>
Land	Any beneficial interest in land which is within the

area of the relevant authority\*.

*\*land excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.*

Licences

Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies

Any tenancy where (to the relevant Member's knowledge)—  
(a) the landlord is the relevant authority; and  
(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities\* of a body where—  
(a) that body (to the relevant Member's knowledge) has a place of business or land in the area of the relevant authority; and  
(b) either—  
(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  
(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*\*securities means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

*\*The provisions in the Code in respect of the registration and declaring of Disclosable Pecuniary Interests and the requirement to withdraw from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and to those of your spouse or civil partner or a person with whom you are living as a spouse or civil partner where you are aware of their interest.*

## **APPENDIX B**

### **OTHER DISCLOSABLE INTERESTS**

An interest which relates to or is likely to affect:

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by this authority or your principal authority.

(ii) any body

- (a) exercising functions of a public nature;
- (b) directed to charitable purposes; or
- (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management.



# **ARTICLE 7**

## **CODE OF CONDUCT FOR EMPLOYEES**

This document outlines the standards of conduct expected from employee's incompliance with this Code of Conduct. The Code cannot cover examples of every specific instance which may arise in the course of employment but sets out the general and in some cases the specific standards which are to be met by all employees.

The Code of Conduct applies equally to all employees irrespective of their role, grade, or status. Certain aspects of the Code e.g.; Political Restriction, will however have more particular relevance to senior or other designated employees.

Elements of the Code apply to employees who are seconded to other organisations and will be applicable to individuals seconded to Merseyside Waste Disposal Authority (The Authority).

Agency staff or staff engaged under partnership arrangements will be expected to be familiar with the content of this Code of Conduct and undertake their duties in compliance. For the purpose of this document the term "employees" is inclusive of these individuals.

Employees in the Local Government Service are bound by certain rules and regulations, in some instances, by legislation, in others by Conditions of Service and the Constitution and Procedure Rules, and all by the terms of their individual contract of employment.

Local Government is a public service, and it is important that every employee conducts themselves in a manner which is beyond reproach and can be defended in the face of public criticism.

## **1.LINKS TO ASSOCIATED PROCEDURES**

The Code of Conduct has been developed to be used as a general guide and will have links to other associated procedures that may also regulate or guide the standards of conduct expected of employees. There are numerous procedures within Human Resources, Health and Safety, Finance, Information Technology, Service Standards, Authority Constitution and Procedural Rules, Procurement and Equalities that will have close links to this Code of Conduct.

## **2. STANDARDS**

Employees in Local Government are expected to give the highest possible standard of service when dealing with the public and other organisations. Where it is a part of employees' duties to provide advice to Elected Members or other employees this should be done appropriately and with courtesy and impartiality.

Employees should bring to the attention of their Chief Executive, Director or Section Manager any deficiency in the provision of a service which they feel could be properly eliminated or improved, any impropriety or any breach of procedure.

### **3. PROFESSIONAL STANDARDS**

There is an obligation on all employees to adhere to rules and standards set by relevant professional bodies or institutions which govern the conduct of their members. Employees who are members of a professional body should offer advice and carry out their duties in accordance with the professional standards of appropriate body or institution. In some circumstances however, the Authority may determine its own standards which may complement or exceed those set by other bodies.

### **4. POLITENESS AND COURTESY**

People generally respond positively to courtesy, and are more willing to co-operate.

This can reduce tension and assist employees to do their job more efficiently. Being polite and courteous also reduces the risks of assault. It is expected that employees conduct themselves with politeness and courtesy when dealing with colleagues, partners, service users of Authority facilities and visitors to the Authority at all times.

### **5. IDENTIFICATION**

Employees should wear identification badges at all times during working hours unless official exemption has been given due to the nature of their work. When answering the telephone employees should use the correct salutation in accordance with the Authority's customer care protocol.

When visiting on business employees should state who they are, where they are from, the purpose of the visit, and the expected or approximate duration of the visit.

A warrant or right of entry documentation should be shown when required.

If possible or practicable employees should make arrangements in advance of visits especially where elderly or infirm clients are involved. Employees should always inform their manager, a colleague or appropriate person of the arrangements for outside visits in case of emergency.

In certain circumstances it may be necessary to ensure such visits are in the presence of another employee.

### **6. IMPLIED CONDITIONS OF THE CONTRACT OF EMPLOYMENT**

Implied terms in any contract of employment are those aspects of it which are not prescribed in some specific way or other (i.e. in writing or in some oral form) which are intended to be binding on both the employer and employee but which form part of the contract.

The main implied terms which affect employees are:

### **The Duty of Fidelity**

The expected loyalty of employees to the employer in the carrying out of a 'contract' to ensure there is no deliberate or negligent actions or omissions which could damage the business prospects or reputation of the Authority or in any way bring the Authority into disrepute.

Such actions could include improper behaviour when on Authority business, using information obtained through employment with the Authority to benefit self/another organisation, or to damage the integrity of the Authority.

### **The Relationship of Confidence and Trust**

Any conduct or action which is likely to destroy or seriously damage the relationship of confidence and trust which must exist between the Authority and its employees will be in breach of this term.

Conduct which brings the Authority into disrepute could include actions committed outside work which has a bearing on employment e.g. fraud or theft.

### **Duty of Care**

Every employee has a duty of care towards the Authority.

Care in this instance is defined as the requirement for employees in their particular occupation to utilise their skills, ability and knowledge (for which they are employed) to the best interest of the Authority.

## **7. MANAGERIAL RESPONSIBILITIES**

Managers at whatever level in the organisation, have particular positions of trust greater than employees without these responsibilities. Terms detailed or implied in their contracts of employment place additional emphasis on behaviour and responsibility. Managers should therefore, set an example to other employees in observing the rules and practices of the Authority.

### **Obligation to Serve Faithfully**

Managers are entrusted to exercise discretion and judgement when carrying out their duties.

When exercising discretion managers must have full regard to the Authority's legal obligations, Procedure Rules, rules of employment and expected standards of conduct and behaviour as they apply to their particular work area.

The contract of employment between Officer and the Authority is breached when managers commit or omit an act, not in the honest exercise of discretion or choice, but in order to disrupt or inconvenience the Authority's business.

### **Duty to Disclose**

All managers are responsible for monitoring the conduct of employees under their control. Where there appears to be evidence of a serious breach of the contract of employment on the part of an employee or employees then managers have a duty to disclose such a breach to their relevant senior manager in order that the appropriate action may be taken.

## **8. CONFIDENTIALITY AND TRANSPARENCY**

Employees who are responsible for information relating to customers and / or service users must maintain the confidentiality of such information. All paper and electronic information collected must be held in a secure and confidential environment and managed in accordance with relevant codes of practice.

Certain information must by law be open, e.g. under Section 100D of the Local Government Act 1972 and under the relevant statute or common law information must be made available to Elected Members, District Auditors and or the Public,

There are also obligations to disclose information under the Freedom of Information Act 2000.

Employees who are requested to provide information to any of these parties, must seek clarification in the first instance from their manager who may refer the matter to the Authority's Legal Officer for advice.

## **9. POLITICAL NEUTRALITY**

The Authority is the employer and requires employees to implement its policies.

This must be done equitably and employees must not allow personal or political opinions to interfere with the duty to implement the lawful policies of the Authority.

Where employees are expected to advise Elected Members, they are required to conform to this Code of Conduct.

## **10. POLITICALLY RESTRICTED POSTS**

Under the Local Government and Housing Act 1989, Local Authority employees holding politically restricted posts (as defined below) are disqualified from elected membership of any Council (other than a Parish Council), from being an MP or an MEP or to hold office in a political party. Neither must employees canvass at any election or poll and/or speak or write in public in a way which can be construed to affect public support for a political party.

The posts under this restriction are:

a) The Chief Executive of Waste Disposal and Directors

b) All posts graded at spinal column point 44 (or equivalent) salary and above;

c) All posts which meet the duties-related criteria for determining a “sensitive” post irrespective of remuneration level. These posts are defined as those which;

-give advice on a regular basis to the Authority, to any committee or sub-committee of the Authority, to any joint committee on which the Authority are represented.

-speak on behalf of the Authority on a regular basis to journalists and broadcasters

Employees who wish to apply for exemption from these restrictions should formally consult both the Chief Executive and the Assistant Corporate Services Manager.

## **11. RELATIONSHIPS**

### **Elected Members**

Both Councillors and Authority Employees are servants of the public, and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts.

Authority Employees are responsible to Merseyside Waste Disposal Authority. Their job is to carry out the Authority’s work under the direction and control of the Authority, the Chief Executive and, Committees and sub-committees.

Mutual respect between Councillors and Authority Employees is essential for good local government. Close personal familiarity between individual Councillors and Authority Employees can damage the relationship and prove embarrassing to other Councillors and Authority Employees.

It is important to realise that local government employees should not use personal relationships with Elected Members to influence or attempt to influence any decision making process of the Authority or to interfere with the proper implementation of Authority decisions. Nor should Elected Members use personal relationships with employees to interfere with or gain advantage over the proper running of the local government service.

In the case of the Chief Executive any relationships of the above type must be reported to the Authority.

### **Contractors and Suppliers**

Relationships that exist or have existed between Officers with contractors or suppliers, or with potential contractors or suppliers, whether financial or non-financial must be declared.

Contractors and suppliers must be dealt with in a fair and equitable manner and no advantageous, disadvantageous or prejudicial treatment given to individuals. This is in addition to the statutory responsibilities of all Authority Employees under the provisions of Section 117 of the Local Government Act 1972

Employees who engage or supervise contractors or suppliers and are involved with suppliers or contractors with whom they previously had or currently have a relationship in a private or domestic capacity must declare that relationship (as soon as they become aware of it), in writing to the Chief Executive.

Contractors and suppliers must not be used in a private or domestic capacity by any employee who has had or is having an official relationship with the contractor or supplier where the employee may benefit from that relationship. If any relationship becomes unavoidable, for example if the domestic relationship preceded the Authority's business relationship then the circumstances of the private or domestic relationship must be declared to the Chief Executive using the appropriate form i.e.

Registration of Personal Interests.

Contractors and suppliers of the Authority must not be approached by employees in any capacity, to provide goods and services at preferential rates by virtue of employees' dealings on behalf of the Authority. This does not apply to employees purchasing goods or services at normal rates from Authority suppliers in their capacity as a member of the public.

Exceptions to the above are those organisations who have been approved or authorised by the Authority to offer preferential rates for their goods and services to all employees of the Authority.

### **Appointments/Promotion/Discipline**

Appointments or promotions must be made in accordance with the Authority's Recruitment, Selection and Retention Policy. Employees involved in these processes must declare to their manager any personal, social or other relationship with any candidate over whom a decision is required. It is unlawful to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post.

Candidates for all appointments are required to disclose on their application forms whether they are related to any Elected Councillor or employee of the Authority.

All employees graded above scp 28, or who receive a rate of pay in excess of that must disclose to their manager any relationship known to exist between themselves and any candidate for appointment with the Authority.

Similarly, irrespective of an employee's grade, caution and judgement must be exercised if they are involved or potentially involved in decisions relating to Human Resources

Procedures which involve another employee with whom they have a personal, social or other relationship.

### **Management / Staff /Private Business Relationships**

Given the wide range of skills of Authority employees, there may be occasions when employees carry out private work for other employees either on a voluntary or paid basis. This is generally, but not exclusively within technical or craft areas (e.g. bricklaying, joinery, plumbing, building drawings, gardening etc). The above of course is subject to employees complying with their obligations contained elsewhere within the Code of Conduct.

However, problems could occur if employees undertake work or activities of this kind for managers. Such relationships may influence a manager's judgement in relation to employment matters or be perceived by others as doing so.

Managers should therefore not have staff undertake private work for them.

### **12. DATA PROTECTION**

Under the Data Protection Act 1998 employees have a legal obligation to safeguard personal data in their care and treat it in accordance with the provisions of the Act.

All personal information which is held and accessed in the course of employees' duties must be treated as confidential. It must not be disclosed to a third party without authorisation or permission of the party concerned. Employees must abide by the Authority's Data Protection policy and other relevant codes of practice in relation to data held about service users, employees or members of the public.

### **12. OUTSIDE COMMITMENTS / ADDITIONAL EMPLOYMENT**

Employees graded above spinal column point 28 or who are above that corresponding pay level must not engage in other employment or engage in any other business without the express permission of the Authority.

Ordinarily, employees graded below scp 28 do not have to seek permission to engage in other employment or other business. However, the Authority subscribes to the Working Time Regulations (1998, as amended) and will take an interest in the number of hours that employees work above those contracted to the Council. The Council's Working Time Policy statement requires employees to notify their manager of any additional work undertaken. Managers will be expected to monitor the number of hours employees work within this category and should bring any issues they feel appropriate to their own manager, Chief Executive or The Assistant Corporate Services Manager.



The Authority also has a duty of care to its employees and recognises that working excessive hours may be a contributory factor to employee's ill health and may have an adverse effect on their ability to perform their substantive duties at the Authority.

All employees irrespective of grade or status must not involve themselves in any organisation or business on a regular or casual basis, which carries out work on behalf of the Authority or on Authority property, nor must they hold any financial or business interest in any such organisation. In addition, if family are so involved then the family and business relationship must be declared to the Chief Executive using the appropriate form i.e. Registration of Personal Interest.

If clarification is required on this matter then advice should be sought from the Assistant Corporate Service Manager and if necessary discussed with the Chief Executive, and, the relevant Director.

Guidance is available at paragraph 22 of this Code of Conduct should employees seek to engage in outside commitments / additional employment.

#### **14. REGISTRATION OF PERSONAL INTERESTS**

Senior Officers (Director and above) must make an annual declaration of any personal interests they may have. Senior Officers will be expected to make a declaration annually, even if it is simply to formally state that they have no interests to declare.

In addition certain Senior Officers as deemed appropriate by the Chief Executive will also be expected to make similar declarations. These declarations will be from Senior Officers involved in the procurement function, dealing with contractors or suppliers or those involved in sensitive dealings with the public.

All employees irrespective of grade or status must declare to the Chief Executive any interest that could bring about conflict with the Authority's interests e.g. acting as a school governor or involvement with any organisation or pressure group which may seek to influence the Authority's policies, and/or seek funding grants.

All employees irrespective of grade or status must declare any financial interests in organisations which could conflict with the Authority's interests.

Employees who are members of organisations not open to the public and which have secrecy about rules, membership or conduct, must declare this membership to the Chief Executive, using the appropriate form i.e. Registration of Personal Interest.

In the case of the Chief Executive any personal interests of the above type must be reported to the Clerk to the Authority.

Guidance is available at paragraph 22 for employees wishing to register a personal interest.

## **15. USE OF AUTHORITY PROPERTY OR FACILITIES**

Employees must not remove or use Authority property or facilities for personal requirements or for the benefit of others where the work of the Authority is not involved.

Use of Authority buildings or property outside your normal duties and hours of work must be fully authorised and open to security.

Employees must not conduct business or work connected with an outside business or organisation during Authority time. Employees must not involve colleagues or request them to carry out such work.

## **16. COPYRIGHTS, DESIGNS AND PATENTS**

Any inventions, creative design, writing or drawings which are produced as part of normal duties or as an obligation are the property of the Authority and must not be passed to outside organisations or persons.

Employees must not market or sell any invention, creative design, writing or drawing which has been produced or used during their period of employment with the Authority.

## **17. EQUALITY ISSUES**

All employees have an obligation to ensure that they comply with the requirements of the law and Authority policies relating to equality and respect at work.

## **18. INVOLVEMENT IN THE TENDERING PROCESS**

Employees involved in the tender process for Authority services or in the procurement of goods and services should fully understand the current Authority's procedures and practices and be conversant with the Authority Procedural Rules. If employees are unclear, they should seek guidance from their manager.

Employees, when dealing with customers, suppliers, contractors and sub-contractors, must do so in a fair and impartial manner.

Employees who are privy to confidential information on tenders or costs for either internal or external contractors or suppliers must not disclose that information to unauthorised parties or organisations.

You 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 businesses run by them or employing them in a senior or relevant managerial capacity.

If a contract in which you have a pecuniary interest, whether direct or indirect not being a contract to which you are yourself a party, comes before the Authority, you must give notice of your interest at the earliest opportunity on the appropriate form.

In the case of the Chief Executive any interest of the above type must be reported to the Authority.

## **19. CORRUPTION**

It is a criminal offence for employees to corruptly receive or give any gift, loan, fee, reward or advantage for providing or not providing anything or showing favour or disfavour in their official capacity to any person.

## **20. FINANCIAL RESOURCES**

Employees who are responsible for financial resources of the Authority must ensure that they are used in a responsible and lawful manner, thus ensuring Best Value to the taxpayer and avoiding legal challenge to the Authority.

Employees must ensure that all Authority Standing Order and Procedural Rules are observed when handling or dispensing financial resources.

## **21. HOSPITALITY AND GIFTS**

The circumstances surrounding the provision and receipt of gifts and hospitality area is a sensitive issue in all aspects of the public service. For obvious reasons employees should exercise extreme caution when offered any form of gift or hospitality connected to their duties. The following set out some guidelines but it is essential that employees seek the earliest clarification from their manager before acceptance if there is any doubt.

### **HOSPITALITY**

#### **Official Hospitality**

Some Officers will be expected to attend official functions and events on behalf of the Authority and sometimes will accompany Elected Members. It is the norm that hospitality will be provided by the host and it is quite acceptable and proper that this reasonable hospitality be accepted and there is no requirement for the officer to declare it.

#### **Hospitality at Conferences, Seminars / Training Courses**

A part of some officers' professional duties will be to attend conferences, seminars, briefings etc. As part of the fee, which is usually paid by the Authority, hospitality will be offered in the form of lunches, dinners or receptions. Provided that this is an integral part of the event there is no requirement to declare this.

At certain events organisations may provide hospitality over and above that included in the fee. This hospitality may be open to all or by select invitation. As a rule employees should declare all hospitality offered over and above that included in the event fee, albeit this may be in retrospect.

### **Day to Day Working / Hospitality**

During officers' day to day business it is possible that an offer of hospitality will be made. This hospitality usually takes the form of refreshments. In these situations officers should exercise caution and professional judgement without causing offence to the other party.

### **Private / Recreational Hospitality**

Hospitality may be offered to officers by organisations with speculative or established links to the Authority. This hospitality usually has a recreational base and includes golf events, football / rugby/ cricket games, theatre tickets, holidays, spa days etc., but could also extend to invitations to dinners and or events organised by institutions or consultants. This type of hospitality must be declined, and declared.

All declared hospitality or offers of hospitality will be recorded in the central register in the Corporate Services Section.

### **Declaration of Hospitality**

To declare details of hospitality you should complete form DA1 as soon as possible. The form is available from the Corporate Services Section.

Details of hospitality (accepted or declined) will be entered into a register which will be maintained by the Corporate Services Section Resources. The record of hospitality which is declared or declined should be sent to the Corporate Services Section. If possible a value of the hospitality should be provided. Employees should always inform their Line Manager accordingly.

### **Gifts to Employees**

With the exceptions outlined below employees are not permitted to receive gifts in their capacity as employees of the Authority. These include gifts for work undertaken, speaking engagements, gifts from organisations with links to the Authority, gifts provided at seminars / conferences, competitions connected to the employees work, etc.

Promotional gifts of insignificant value (e.g. pens, diaries, key rings, calendars etc.) are acceptable and employees will not be required to declare these.

Individual employees or the section within which they work, may also receive gifts from current and former colleagues. These gifts are usually in the form of souvenirs, flowers,

confectionery, wine etc. These gifts are acceptable and there is no requirement to declare them.

All other gifts should either be declined or where this is not practical, declared to the Corporate Services Section who will arrange for the gift to be donated to an appropriate charity. Acknowledgement will be sent to employees declaring the gift or item.

Employees are reminded in all cases that where there is any doubt then guidance should be sought from the Assistant Corporate Services Manager, Line Manager or Chief Executive.

In the case of the Chief Executive any uncertainty as to the acceptability or otherwise of offers of hospitality should be discussed with the Clerk and Solicitor to the Authority.

## **22. REGISTERING A PERSONAL INTEREST / APPLICATION FOR PERMISSION TO ENGAGE IN OUTSIDE COMMITMENTS / ADDITIONAL EMPLOYMENT**

Employees registering an interest or applying for permission to engage in outside commitments or additional employment should do so on the appropriate form which is obtainable within the Employee Handbook, the Authority Intranet or from the Corporate Services Section.

In all cases employees' applications to engage in outside commitments or additional employment will be considered by and commented on in the first instance by the Director and Section Manager. This will then be submitted to the Chief Executive who will approve or disallow the request. The decision will be relayed to the employee in writing. Until such confirmation is received no commitments should be entered into.

Employees registering interests will receive acknowledgement and notification of specific action required to be undertaken in accordance with this Code of Conduct.

## **23. RECONSIDERATION**

If employees are dissatisfied with the response of the Chief Executive then they may write to the Chief Executive requesting reconsideration of the issue. This should include any further evidence that may assist the Chief Executive.

# **ARTICLE 8**

## **MEMBER / OFFICER PROTOCOL**

## 1. **INTRODUCTION**

- 1.1 The relationship between Members and Officers is an essential ingredient that goes into the successful working of the organisation. This relationship should be characterised by mutual respect, informality and trust. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is rather to help Members and Officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Clerk to the Authority.
- 1.2 The Protocol must be read and operated in the context of any relevant legislation and national and local codes of conduct.
- 1.3 "Officer" for the purposes of this Protocol includes all employees of the Authority.
- 1.4 "Member" for the purpose of this Protocol relates to those Councillors who have been nominated to represent their constituent district council on the board of Merseyside Waste Disposal Authority.

## 2. **ROLES OF MEMBERS AND OFFICERS**

- 2.1 The respective roles of Members and Officers can be summarised as follows:

### 2.2 **Members**

*Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Authority. Their job is to give advice to Members and to the Authority, and to carry out the Authority's work under the direction and control of the Authority and relevant Committees, etc.*

*Mutual respect between Councillors and Officers is essential to good local government.*

Members have four main areas of responsibility:

- (a) determining the policy of the Authority and giving it political leadership;
- (b) monitoring and reviewing the performance of the Authority in implementing that policy and delivering services;
- (c) representing the Authority externally; and
- (d) acting as advocates on behalf of their constituents.

It is not the role of Members to involve themselves in the day-to-day management of the Authority's services.

### 2.3 Members with Additional Responsibilities

Where Members have additional responsibilities, their relationships with officers may be different from, and be more complex than, those of Members without those responsibilities and this is recognised in the expectations they are entitled to have. However, such Members must still respect the impartiality of Officers and must not ask them to do work of a party political nature.

### 2.4 Opposition Members

As individual Members, all Members have the same rights and obligations in their relationship with Officers and should be treated equally. However, where a political group forms an administration it is recognised that the relationship between Officers, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

### 2.5 Officers

The role of Officers is to give advice and information to Members and to implement the policies determined by the Authority.

In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. No Member should seek to pressure an Officer to make a recommendation contrary to the Officer's professional view.

Some officers have responsibilities in law over and above their obligations to the Authority and to individual Members. Members must respect these obligations, must not obstruct Officers in the discharge of these responsibilities and must not victimise Officers for discharging their responsibilities.

## 3. EXPECTATIONS

### 3.1 Members can expect from Officers:

- (a) A commitment to the Authority as a whole, and not to any political group
- (b) A working partnership
- (c) An understanding of, and support for, respective roles, workloads and pressures
- (d) Timely response to enquiries and complaints
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers



- (f) Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- (g) Awareness of, and sensitivity to, the political environment
- (h) Respect, dignity and courtesy
- (i) Training and development in order to carry out their role effectively
- (j) Integrity, mutual support and appropriate confidentiality
- (k) Not to have personal issues raised with them by Officers outside the agreed procedures
- (l) That Officers will not use their relationship with Members to advance their personal interests or to influence decisions improperly
- (m) That Officers will at all times comply with the relevant Code of Conduct
- (n) Support for the role of Members as the local representatives of the Authority

### 3.2 Officers can expect from Members:

- (a) A working partnership
- (b) An understanding of, and support for, respective roles, workloads and pressures
- (c) Political leadership and direction
- (d) Respect, dignity and courtesy
- (e) Integrity, mutual support and appropriate confidentiality
- (f) Not to be put under undue pressure or bullied. Members should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the respective roles of Members and Officers, and the potential vulnerability of Officers, particularly at junior levels
- (g) That Members will not use their position or relationship with Officers to advance their personal interests or those of others, or to influence decisions improperly.
- (h) That Members will at all times comply with the relevant Code of Conduct

### 3.3 Limitations on Behaviour

The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal relationships between Members and Officers can confuse these separate roles and get in the way of the proper discharge of the Authority's functions, not least in creating the perception of others that a particular Member or Officer may secure advantageous treatment.
- (b) The need to maintain the separate roles means that there are limits to the matters on which Members may seek the advice of Officers, both in relation to personal matters and party political issues.

- (c) Relationships with particular individuals or party groups should not be such as to create public suspicion that an Officer favours that Member or group above others. The issue of Officer attendance and advice to political groups is specifically covered below.

### 3.4 Support Services for Members

The MWDA provides support services for Members :-

- a. Development and training;
- b. Supplementary ICT support coordinated with Districts as necessary

Members' subsistence and travel expenses are also paid in accordance with the MWDA scheme and legislation. Members may only claim expenses that they have actually incurred, and that they needed to incur for MWDA activities.

### 3.5 Member Access to Information

MWDA's Publication Scheme makes a clear presumption in favour of disclosure of information.

Information requested by Members should be supplied to them unless there are good reasons for withholding it in accordance with this Protocol, and those reasons are given in writing and copied to the Monitoring Officer. Information requested should be supplied accurately and quickly. In a few instances, the need to meet legal constraints, and to protect the Authority's and the public interest, may lead to contention.

The following paragraphs set out some guidance on how to resolve those issues.

They describe:-

- The circumstances in which Members have a legal right to access the information
- The limits to those legal rights
- The process that will determine a dispute

Under the "need to know" principle, Members are entitled to the information that they reasonably require to enable them to discharge their functions as Members. They are not entitled to go on fishing expeditions through Authority files. Statute law and the Constitution give Members rights of access to certain Authority documents.

Members do not have a general right to require Officers to carry out research or administrative work to provide information, apart from Officers whose job is to provide such support to Members. Unless they have authority to do so by virtue of

their specific role, they cannot require resources to be reallocated for work of this kind.

Members are entitled to publicly accessible information, and personal information about themselves, like any other member of the public (for example under the Data Protection Act or the Freedom of Information Act). Members may be authorised by a member of the public to access information on their behalf, but the authority must be in writing clear and explicit.

An Officer may require a Member to undertake that the information will be treated as confidential before supplying it, and may refuse to supply it if the undertaking is not given. Reasons for confidentiality should be given in writing and subject to the Right of Appeal to the Monitoring Officer.

Information provided by Officers should be prompt and accurate.

Any Member who is dissatisfied with the decision to withhold information should complain to the Chief Executive, who may take legal advice. If the Member disagrees with the decision of the Chief Executive they can place the matter before the Authority, or raise it with the District Auditor.

### 3.6 Confidentiality

Members and Officers must keep confidential information and papers confidential. This means not sharing them with anyone.

MWDA papers marked “exempt” and “confidential” are to be treated as confidential. Other information may be confidential because it is against the Authority’s or the public interest to disclose it or because of the circumstances in which it was obtained.

Information about someone’s private or business affairs will normally be confidential, as will their correspondence with the Authority.

Officers should make it clear to Members if they are providing them with confidential information. If a Member is uncertain about whether or not information might be confidential, he or she should seek guidance from the Monitoring Officer, and in the meantime treat it as confidential.

If a Member receives confidential information but think it should be released on a “whistle-blowing” basis in the public interest, he or she must check with the Chief

Executive, Monitoring Officer or Clerk or the appropriate external Regulatory Authority before deciding to release it.

### 3.7 Correspondence

Only the Chair and Deputy Chair can write official letters on behalf of the Authority (that is to say a letter intended or appearing to be written on behalf of the Authority as a body, as opposed to on behalf of an Individual Member) although generally Officers will handle correspondence of all kinds. Members writing official letters on behalf of the Authority must use a style which distinguishes this from the letters written in their personal or political capacities. Other Members' letters are written in personal or political capacities.

A Member can ask an Officer to keep their correspondence private. If the Officer cannot do this (because they are under an obligation to someone else, or under the Constitution, or because the Authority ought to respond to the issue raised in a different way) they must make this clear straight away. Otherwise, the Officer must observe confidentiality.

Unless correspondence is private, Officers may copy letters of general interest to the relevant Executive Member or Committee Chair. They should always state that they are doing this on the letter itself. Officers should never copy Members' correspondence to other Members secretly.

Officers should be aware that Members may circulate their letters to the public unless requested not to do so.

If an Officer needs to reproduce and communicate an oral conversation with a Member in written form, he or she will copy the correspondence to the Member concerned as a matter of courtesy.

Officers should respond to correspondence from Members within 5 working days.

Reference in this section to correspondence includes all e-mails.

### 3.8 Staffing Matters

Members may be formally involved in staff recruitment, disciplinary and grievance issues as a member of a panel. That apart, Members should not become personally involved in such matters. Officers should not raise individual personal issues with Members concerning their jobs.

If a Member received a “whistle blowing” disclosure from an employee he or she should pass it on in accordance with the Whistle Blowing Policy.

### 3.9 Authority Property

Individual Members do not have a general right to visit Authority premises or land that is not open to the public.

Members may have a “need to know” what is happening on Authority premises in the same way as they have access to other information. This will entitle them to visit premises for specific purposes such as scrutiny. If Members do visit premises, they should normally make themselves known to the person in charge.

### 3.10 Attendance at Meetings

Members may wish Officers to attend public meetings to provide them with support. This is subject to the certain principles set out in the Code of Conduct for Employees and summarised below:-

- Officers cannot become involved in political debate. This includes public meetings at which Members are not present.
- Officers will be able to explain particular proposals and issues but technical Officers are not expected to deal with issues outside their area of knowledge.
- Officers will not normally attend such meetings after the publication of notification of election.
- Attendance will be approved by the Chief Executive or appropriate Director in accordance with corporate guidelines if any are set.

Officers may be invited to public meetings by local people or organisations. If so, they should consider whether any Members, especially Ward Members, should be notified.

### 3.11 Avoiding Political Publicity

Literature and other material produced by any Officer or anyone using MWDA facilities:-

- Must not promote or denigrate a political party  
e.g. (“Councillor says Conservatives have got it wrong” is not acceptable).
- Must not promote or denigrate policies that are clearly those of a political party
  - e.g. (“Chairman says Government should give councils more money for Waste” is acceptable, whereas “ Member says Labour should raise taxes to spend more on waste” is not).
- Must not emphasise the political group or party to which a Member belongs by use of large font, unnecessary repetition, design features etc. A single

incidental, low-key reference to political party or group may be permissible. Anything else will not be.

- Must not include slogans, strap lines, logos or other design features identifiable with a political party.
- Must be “objective, balanced, informative and accurate” and avoid oversimplification and sloganising.
- Must not consist of campaigning or persuasive material, as opposed to informative material, except where this is a legally acceptable Authority function (“Register for HWRC Permit” is acceptable, but “Ban fox hunting” is not).
- May only contain quotes from, or photographs of, Members, insofar they are relevant to their roles as Members. Chair, Deputy Chair or Group Leaders and Opposition Spokespersons are therefore in a different position from others.

There should not normally be a problem providing support to Members attending to District matters, such as responding to individual constituent’s complaints and enquiries, helping to solve individual problems, or dealing with local waste issues.

#### 4. **POLITICAL GROUPS**

4.1 The operation of political groups is an integral feature of Local Government, and such political groups can have an important part to play in the development of policy and the political management of the Authority. It is appropriate that the Authority support the effective operation of political groups, when formed, but their operation can pose particular dangers in terms of the impartiality of Officers.

#### 4.2 Reports

Political groups may request the Clerk to prepare written reports on matters relating to the Authority for consideration by the group.

Officer reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Reports will not deal with any political implications of the matter or any options, and Officers will not make any recommendation to a political group.

Where a report is prepared for a political group, the Clerk will advise all other groups that the report has been prepared and will provide a copy of that report to any group upon request.

#### 4.3 Officer Attendance

- a) Any political group may request the Clerk to attend a meeting of the group to advise on any particular matter relating to the Authority.

- b) The Clerk may arrange for the attendance of a representative in his/her stead, or may decline to attend or to provide a representative where he/she is of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
- c) Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Advice will not deal with any political implications of the matter or an option, and Officers will not make any recommendation to a political group.
- d) Where an Officer attends a political group meeting, the Clerk will advise all other groups that the Officer has attended and the subject upon which he/she has advised.
- e) Officers will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

## **5. WHEN THINGS GO WRONG**

### **5.1 Public Criticism**

Members and Officers should not criticise or undermine respect for the other at Authority Meetings or at any other meeting they attend in their capacity as a Member or Officer.

### **5.2 Procedure for Officers**

From time to time the relationship between Members and Officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Members, Officers will have the recourse to the Grievance Procedure or to the Authority's Monitoring Officer as appropriate to the circumstances.

In the event of a grievance or complaint being upheld, the matter will be referred to the Clerk, who, having advised the Chair and the appropriate group leader, will decide on the course of action to be taken.

### **5.3 Procedure for Members**

In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should not be raised at any meeting held in public, instead the matter should be raised with the Chief Executive. Where the Officer concerned is the Chief Executive, the matter should be raised with the Clerk.

If the matter cannot be resolved informally, it may be necessary to invoke the Authority's Disciplinary Procedure.