

# Public Document Pack

**Sefton Council** 

MEETING:       AUDIT AND GOVERNANCE COMMITTEE  
DATE:            Wednesday 13 December 2023  
TIME:            3.00 pm  
VENUE:           Assembly Hall - Bootle Town Hall, Trinity Road, Bootle, L20 7AE

## Member

Cllr. Dave Robinson (Chair)  
Cllr. Michael Roche (Vice-Chair)  
Cllr. John Joseph Kelly  
Cllr. Catie Page  
Cllr. Dr. John Pugh  
Cllr. Simon Shaw  
Cllr. Tom Spring  
Cllr. Carla Thomas  
Cllr. Anne Thompson  
Cllr. Veronica Webster  
Rachel Oakes

## Substitute

Cllr. Susan Bradshaw  
Cllr. Paula Murphy  
Cllr. Christine Howard  
Cllr. Laura Lunn-Bates  
Cllr. Iain Brodie - Browne  
Cllr. Gareth Lloyd-Johnson  
Cllr. Sean Halsall  
Cllr. James Hansen  
Cllr. Paula Spencer  
Cllr. Judy Hardman

COMMITTEE OFFICER:       Amy Dyson Democratic Services Officer  
Telephone:                0151 934 2045  
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**If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.**

We endeavour to provide a reasonable number of full agendas, including reports at the meeting. If you wish to ensure that you have a copy to refer to at the meeting, please can you print off your own copy of the agenda pack prior to the meeting.

# **A G E N D A**

**1. Apologies for absence**

**2. Declarations of Interest**

Members are requested at a meeting where a disclosable pecuniary interest or personal interest arises, which is not already included in their Register of Members' Interests, to declare any interests that relate to an item on the agenda.

Where a Member discloses a Disclosable Pecuniary Interest, he/she must withdraw from the meeting room, including from the public gallery, during the whole consideration of any item of business in which he/she has an interest, except where he/she is permitted to remain as a result of a grant of a dispensation.

Where a Member discloses a personal interest he/she must seek advice from the Monitoring Officer or staff member representing the Monitoring Officer to determine whether the Member should withdraw from the meeting room, including from the public gallery, during the whole consideration of any item of business in which he/she has an interest or whether the Member can remain in the meeting or remain in the meeting and vote on the relevant decision.

**3. Minutes** (Pages 5 - 8)

Minutes of the meeting held on 27 September 2023

**4. Corporate Risk Management** (Pages 9 - 46)

Report of the Executive Director of Corporate Resources and Customer Services

**5. Risk and Audit Service Performance** (To Follow)

Report of the Executive Director of Corporate Resources and Customer Services

**6. Follow up of Audit Agreed Actions** (To Follow)

Report of the Executive Director of Corporate Resources and Customer Services

**7. Financial Procedure Rules** (Pages 47 - 118)

Report of the Executive Director of Corporate Resources and Customer Services

**8. Information Governance and Compliance – internal guidance and policies** (Pages 119 - 158)

Report of the Executive Director of Corporate Resources and Customer Services

- 9. Procurement – National Procurement Policy and Contract Procedure Rules** (Pages 159 - 222)

Report of the Executive Director of Corporate Resources and Customer Services

- 10. Treasury Management Position to September 2023** (Pages 223 - 234)

Report of the Executive Director of Corporate Resources and Customer Services

- 11. Quarterly Work Programme Update Report** (To Follow)

Report of the Executive Director of Corporate Resources and Customer Services

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**THIS SET OF MINUTES IS NOT SUBJECT TO "CALL IN"**

## **AUDIT AND GOVERNANCE COMMITTEE**

**MEETING HELD IN THE COMMITTEE ROOM - BOOTLE TOWN HALL,  
TRINITY ROAD, BOOTLE, L20 7AE  
ON WEDNESDAY 27TH SEPTEMBER, 2023**

**PRESENT:** Councillor Robinson (in the Chair)  
Councillors Roche, John Joseph Kelly, Catie Page,  
Pugh, Shaw, Spring, Thomas, and Webster

**ALSO PRESENT:** Rachel Oakes (Independent Member), Hayley Clark  
(Ernst and Young LLP), Sanchita Rai (Ernst and  
Young LLP) and Mr Hassan Rohimun (Ernst and  
Young LLP)

### **24. APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor Anne Thompson.

### **25. DECLARATIONS OF INTEREST**

No declarations of any disclosable pecuniary interests or personal interests were received.

### **26. MINUTES**

**RESOLVED:**

That the Minutes of the meeting held on the 6 September 2023 be confirmed as a correct record.

### **27. STATEMENT OF ACCOUNTS 2020/2021**

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services which presented the final audited 2020/2021 Statement of Accounts, including the Annual Governance Statement. The report also included the proposed "Letter of Representation" from Sefton to Ernst and Young LLP (EY).

The report provided details on; the Current Position of the Audit of the Statement of Accounts 2020/2021, the Content of the Statement of Accounts, the Annual Governance Statement, Significant Accounting Matters, Ernst and Young's Report and a Letter of Representation.

The Executive Director of Corporate Resources and representatives from Ernst and Young presented the reports and answered a range of questions from the Committee.

# Agenda Item 3

AUDIT AND GOVERNANCE COMMITTEE - WEDNESDAY 27TH  
SEPTEMBER, 2023

RESOLVED: That

- (1) the 2020/2021 Statement of Accounts be approved, subject to the final completion of the audit;
- (2) should any material changes be required to the current version of the Statement of Accounts, the Chair of the Committee be delegated to approve the final Statement of Accounts following completion of the audit;
- (3) the Annual Governance Statement (Section 11 of the Statement of Accounts) be approved;
- (4) the comments of Ernst and Young LLP be noted;
- (5) the Letter of Representation be approved, subject to completion of the Audit, and the Chair of the Committee and the Executive Director of Corporate Resources and Customer Services be authorised to sign it on the Council's behalf; and
- (6) should the approved version of the Letter of Representation need to be updated following the completion of the Audit, the Chair of the Committee and the Executive Director of Corporate Resources and Customer Services be authorised to sign it on the Council's behalf.

## **28. STATEMENT OF ACCOUNTS 2021/2022**

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services which presented the final audited 2021/2022 Statement of Accounts, including the Annual Governance Statement. The report also included the proposed "Letter of Representation" from Sefton to Ernst and Young LLP (EY).

The report provided details on; the Current Position of the Audit of the Statement of Accounts 2021/2022, the Content of the Statement of Accounts, the Annual Governance Statement, Significant Accounting Matters, Ernst and Young's Report and a Letter of Representation.

The Executive Director of Corporate Resources and representatives from Ernst and Young presented the reports and answered a range of questions from the Committee and advised that a further update would be provided to the Committee in December 2023.

RESOLVED: That

- (1) the 2021/2022 Statement of Accounts be approved, subject to the final completion of the audit;
- (2) should any material changes be required to the current version of the

# Agenda Item 3

AUDIT AND GOVERNANCE COMMITTEE - WEDNESDAY 27TH  
SEPTEMBER, 2023

Statement of Accounts, the Chair of the Committee be delegated to approve the final Statement of Accounts following completion of the audit;

- (3) the intention to bring an update report to the Audit and Governance Committee in March 2024, which will detail any changes made, be noted;
- (4) the Annual Governance Statement (Section 11 of the Statement of Accounts) be approved;
- (5) the comments of Ernst and Young LLP be noted;
- (6) the Letter of Representation be approved, subject to completion of the Audit, and the Chair of the Committee and the Executive Director of Corporate Resources and Customer Services be authorised to sign it on the Council's behalf; and
- (7) should the approved version of the Letter of Representation need to be updated following the completion of the Audit, the Chair of the Committee and the Executive Director of Corporate Resources and Customer Services be authorised to sign it on the Council's behalf.

## **29. STATEMENT OF ACCOUNTS 2022/2023**

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services which presented the draft 2022/2023 Statement of Accounts, including the Annual Governance Statement.

The report provided details on; the Current Position of the Statement of Accounts 2022/2023 and the commencement of the audit and the Content of the Statement of Accounts.

The Executive Director of Corporate Resources and representatives from Ernst and Young presented the reports and answered a range of questions from the Committee. The Committee was advised that the final draft accounts would be completed in the next 3 weeks. Representatives from Ernst and Young advised that at present no date had been set for the audit of these accounts as they awaited further ministerial guidance on the approach to year end auditing and an assessment of internal resources. Further guidance would be provided to the Committee at the meeting in December 2023.

RESOLVED: That

- (1) the 2022/2023 Statement of Accounts be approved, subject to the final completion of the audit;
- (2) should any material changes be required to the current version of the

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AUDIT AND GOVERNANCE COMMITTEE - WEDNESDAY 27TH  
SEPTEMBER, 2023

Statement of Accounts, the Chair of the Committee be delegated to approve the final Statement of Accounts following completion of the audit;

- (3) the intention to bring an update report to Audit and Governance Committee in March 2024, detailing any changes made to the Statement of Accounts 2022/2023, be noted;
- (4) the Annual Governance Statement (Section 11 of the Statement of Accounts) be approved; and
- (5) the comments of Ernst and Young LLP be noted.



# Agenda Item 4

<b>Report to:</b>	Audit and Governance Committee	<b>Date of Meeting:</b>	Wednesday 13 December 2023
<b>Subject:</b>	Corporate Risk Management		
<b>Report of:</b>	Executive Director of Corporate Resources and Customer Services	<b>Wards Affected:</b>	(All Wards);
<b>Portfolio:</b>	Regulatory, Compliance and Corporate Services		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

## Summary:

The Corporate Risk Register is presented to each meeting of the Audit and Governance Committee. Since the last Committee meeting in September 2023, the Corporate Risk Register has been reviewed and updated.

The ownership of the content of the Corporate Risk Register lies with the Strategic Leadership Board in accordance with the Corporate Risk Management Handbook approved by the Committee.

No new risks have been added or escalated to the Corporate Risk Register in the current quarter. However, following a comprehensive review that sought to remove any duplication and place a clear focus on the key risks facing the Council, 15 risks were identified for de-escalation after rescoring and moved to the relevant Service Risk Registers as appropriate or removed as they are covered elsewhere.

- Sandway Homes - Financial sustainability beyond 2023/24
- Failure to adequately invest in the Highway network and associated assets.
- Condition of Assets
- Impact of Cost of Living crisis on residents and demand for Council services
- Market failure of Social Care provision across Adult and Children's
- Inflation and cost of care (ASC) impact on budget availability
- Climate Emergency- Strategic Risk
- Lack of SEND specialist placements for children and young people.
- Requirement to work collaboratively with Sefton New Directions to review delivery model, in order to meet market requirements and promote financial sustainability; identify opportunities and future risk mitigation.
- Education service not being able to meet statutory compliance at an acceptable level.
- ASC contracted rates are no longer sufficient to secure placements.
- School debts transferring back to the Council in the event of them being forced into academy status or closing.

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- Inability to recruit required ASC staff and retention of current workforce.
- The provision of Children's Social Care is not financially sustainable.
- Failure to adequately maximise the benefits of digital growth to the local community and businesses.

A presentation on one of the risks from the Corporate Risk Register will be provided to Members at the September meeting.

There are other on-going initiatives to embed risk management within the Council including Assurance Mapping and implementing the three lines model.

The Institute of Internal Auditors Risk in Focus papers provides an insight in risks across Europe in the public and private sector. The Council's risks are broadly in alignment with the risks identified in the paper. The paper highlights the "poly crisis's" that are occurring in the external environment providing a unique set of challenges regardless of whether organisations and or companies operate at local, regional, national, or international basis.

## **Recommendation(s):**

(1) Consider the updated Corporate Risk Register, noting the nature of the major risks facing the Council, and the controls and planned actions in place to mitigate these risks.

(2) Note the progress on the embedding of risk management within the Council.

## **Reasons for the Recommendation(s):**

A robust system of risk management will assist the Council in meeting its identified objectives.

## **Alternative Options Considered and Rejected:** (including any Risk Implications)

None.

## **What will it cost and how will it be financed?**

**(A) Revenue Costs** - There are no direct financial implications arising from this report. However, the Council benefits from the work of the section in reducing the impact and likelihood (and so the cost) of risk.

**(B) Capital Costs** - There are no direct capital costs arising from the report.

## **Implications of the Proposals:**

<b>Resource Implications (Financial, IT, Staffing and Assets):</b>
There are no direct resource implications.
<b>Legal Implications:</b>
There are no legal implications.
<b>Equality Implications:</b>
There are no equality implications.
<b>Impact on Children and Young People:</b> Yes
There are a number of Children's Services related risks in the Corporate Risk Register.

There are no direct implications as the existing controls and further actions are a summary of what has already been agreed. Where risks are managed effectively the achievement of the Council's objectives in this case for Children's Services will more likely be achieved.

**Climate Emergency Implications:**

The recommendations within this report will

Have a positive impact	Yes
Have a neutral impact	No
Have a negative impact	No
The Author has undertaken the Climate Emergency training for report authors	Yes

The report provides a summary of the risks identified and managed that will impact on the delivery of the Council's purpose. The Corporate Risk Register includes a Climate Change Emergency risk with actions to mitigate its impact and likelihood.

**Contribution to the Council's Core Purpose:**

Protect the most vulnerable: Positive.
Facilitate confident and resilient communities: Positive.
Commission, broker and provide core services: Positive.
Place – leadership and influencer: Positive
Drivers of change and reform: Positive
Facilitate sustainable economic prosperity: Positive.
Greater income for social investment: Positive
Cleaner Greener: Positive

**What consultations have taken place on the proposals and when?**

**(A) Internal Consultations**

The Executive Director of Corporate Resources and Customer Services (FD7451/23) and the Chief Legal and Democratic Officer (LD5551/23) have been consulted and any comments have been incorporated into the report.

**(B) External Consultations**

None

**Implementation Date for the Decision**

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Immediately following the Committee meeting.

<b>Contact Officer:</b>	David Eden
Telephone Number:	0151 934 4053
Email Address:	david.eden@sefton.gov.uk

## Appendices:

- Corporate Risk Register December 2023
- Institute of Internal Auditors Risk in Focus publication

## Background Papers:

There are no background papers available for inspection.

### 1. Introduction

- 1.1 Risk Management is defined as 'systematic application of principles, approach and processes to the task of identifying and assessing the risk and the planning and implementing of risk responses.'
- 1.2 The Risk Management Strategy included in the Corporate Risk Management Handbook, which is presented to the Audit and Governance Committee on an annual basis for approval, states that:
- 1.2.1 "Risk Management is to be an integral part of the planning and decision-making processes of the Council and that the Strategy is intended to ensure that Risk Management is embedded in the overall planning process.
- 1.2.2 Risk management is a central part of Council's strategic management and its corporate governance. Effective risk management makes sound business sense and is a good management tool as it helps to ensure that the corporate strategic objectives, in this case Sefton 2030, are achieved. The focus of good risk management is the identification and treatment of risks that could affect the delivery of these objectives.
- 1.2.3 Risk management should be a continuous and developing process which runs throughout the Council's activities. A systematic approach to identifying and analysing risks is an integral part of all management processes and day-to-day working, rather than a separate initiative."
- 1.3 The responsibilities for risk management within Council are detailed in the Constitution within the Financial Procedural Rules. Selected extracts include:
- 123 The Council's approach to Risk Management is that it should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.
- 124 The Section 151 Officer develops the strategy and supporting framework on behalf of Executive Directors and Heads of Service (Now referred to as Assistant

Directors). The Audit and Governance Committee scrutinise the risk management process ensuring the Council's risks are managed effectively.

125 Executive Directors and Heads of Service are responsible for ensuring the Risk Management Strategy is implemented and that the full risk management cycle operates within their Service.

128 Executive Directors and Heads of Service are responsible for ensuring risk management is carried out at both an operational and strategic level in accordance with the agreed guidance and procedures.

129 Executive Directors and Heads of Service will take account of, and address, corporate risks and inform the Chief Internal Auditor of any service risks that should be considered significant enough to rise to the corporate risk register level.

130 Service and operational risk registers, and associated actions, should be reviewed on a regular basis (at least quarterly) as part of the performance management process.

- 1.4 Whilst the process of risk management is routinely undertaken within the Council in a number of areas, both at a strategic level and operationally, it is recognised that there is still scope, to develop a more integrated risk management approach. This report seeks to continue the process of formalising a system of robust Corporate Risk Management and embedding this further into the organisation. The Corporate Risk Management Handbook (CRMH) outlines that there should be three tiers of risk registers in place across the organisation which are identified through the scoring of the risks:
- Corporate Risk Register (CRR)– risks scored at 16 plus and these are the key risks affecting the Council.
  - Service Risk Registers (SRR)– risks scored between eight and 15 which are owned and managed by the Head of Service.
  - Operational Risk Registers (ORR) – risks scored at seven and below which are owned and managed by Service Managers.
- 1.5 An updated CRR is presented at each meeting of this Committee for Members to consider. The ownership of the content of the Corporate Risk Register lies with the Strategic Leadership Board. The CRR has been shared with and reviewed by senior officers to ensure that the risk register reflects the most significant risks facing the Council. The completion of a risk register also demonstrates that the Council has set out an approach to mitigate the risks that have been identified. The updated CRR is set out at Appendix A, using the revised scoring approved by Members in September 2022, for noting by the Committee.
- 1.6 The SRRs are owned and should be reviewed by the Assistant Directors (previously known as Heads of Service) on a quarterly basis and provided to the Risk and Audit team for information. The completed Service Risk Registers are used by Audit as an agenda item in the formal six-monthly meeting with the Assistant Directors and are also used for the monthly budget meetings that are held by Financial Management with the Service Management teams.

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- 1.7 The Operational Risk Registers are owned and revised by Service Managers. Members may remember that the Risk and Resilience Team assisted by the Internal Audit Team completed an exercise in 2018/19 to fully implement this tier of risk registers across the organisation facilitating the completion of over 70 risk registers. This exercise was completed in March 2019. The Risk and Resilience Team, assisted by the Internal Audit Team, work with the individual teams to facilitate regular reviews of the risk registers which will help to embed risk management at the centre of the Council's activities.

## 2. Key Developments

### 2.1 External operating environment

- 2.1.1 The external operating environment has continued to evolve over the past quarter building on a number of significant external events occurring in the previous 24 months. These events can affect existing risks by potentially increasing the impact and/or likelihood as well as create new risks which could potentially detrimentally impact on the achievement of the Council's strategic objectives.

- 2.1.2 Some of the events that have occurred and still impacting include.

- UK inflation although falling has been substantially greater than originally planned impacting on organisations and individuals.
- Energy costs whilst lower than 12 months ago are higher than before the invasion of Ukraine.
- Combination of significantly higher than planned inflation, food cost inflation and increased energy costs leading to a cost of living impact to households.
- Supply chain issues continuing post Covid-19 and complicated by Ukraine invasion.
- Geopolitical tensions in the Middle East
- Bank of England interest rate increases raising bank lending interest rates higher than originally perceived and potentially at a faster rate.
- Heightened cyber security risks remaining following invasion of Ukraine.

### 2.2 Corporate Risk Register (CRR)

- 2.2.1 Since the September 2023 update to the Audit and Governance Committee, the CRR has been reviewed and updated. The main changes include:

- 2.2.2 No new risks have been added or escalated to the Corporate Risk Register in the current quarter.

- 2.2.3 During the current consultation, 15 risks were identified for de-escalation after a comprehensive review to ensure that there is no duplication, and the focus of the document is on those risks that are most critical to the council at this point. Sandway Homes - Financial sustainability beyond 2023/24

- Failure to adequately invest in the Highway network and associated assets.
- Condition of Assets
- Impact of Cost of Living crisis on residents and demand for council services
- Market failure of Social Care provision across Adult and Children's
- Inflation and cost of care (ASC) impact on budget availability
- Climate Emergency- Strategic Risk

- Lack of SEND specialist placements for children and young people.
- Requirement to work collaboratively with Sefton New Directions to review delivery model, in order to meet market requirements and promote financial sustainability; identify opportunities and future risk mitigation.
- Education service not being able to meet statutory compliance at an acceptable level.
- ASC contracted rates are no longer sufficient to secure placements.
- School debts transferring back to the Council in the event of them being forced into academy status or closing.
- Inability to recruit required ASC staff and retention of current workforce.
- The provision of Children's Social Care is not financially sustainable.
- Failure to adequately maximise the benefits of digital growth to the local community and businesses.

2.2.4 There have been several changes to the narrative within the CRR and a revised process has been agreed with the draft CRR being provided firstly to the Executive Leadership Team and then the Strategic Leadership Board for information before being provided to the Audit and Governance Committee for noting. The Corporate Risk Management Handbook will be updated with this revised process following the introduction of risk appetite on the Committee header sheet.

## **2.3 Service Risk Register (SRR)**

2.3.1 The March 2021 update highlighted that the position on the completion of the quarterly updates on the SRRs, in line with the requirements detailed in the Corporate Risk Handbook, would be provided to the Committee indicating how many had been updated and shared with the Risk and Resilience Team on a rolling 12-month basis. A copy of the SRR from each Service Area is requested at the same time updates for the Corporate Risk Register are requested from members of Strategic Leadership Board. The following provides details of the outcome of the SRR response for a rolling five quarters.

2.3.2 A total of eight (80%) SRRs have been provided for Q3 2022/23.

2.3.3 A total of ten (100%) SRRs have been provided for Q4 2022/23.

2.3.4 A total of eight (80%) SRRs have been provided for Q1 2023/24.

2.3.5 A total of nine (90%) SRRs have been provided for Q2 2023/24

2.3.6 A total of nine (90%) SRRs have been provided for Q3 2023/24

2.3.7 We have worked with all Service Areas to ensure that there is an updated Service Risk Register for this quarter including the Service Area that has not provided their updated Service Risk register. We are aware that changes have been made to the content however the completed SRR has not been provided at the time of writing the report.

2.3.8 Focus on work during the next quarter will be on ensuring that the SRRs are updated taking into consideration the risks within the Operational Risk Registers as well as ensuring that there is a 100% response to the quarterly request for an

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SRR. We are going to be looking qualitatively at the SRRs and provide feedback to the risk owners.

## 2.4 Operational Risk Registers (ORR)

2.4.1 The Risk and Resilience team continue to work with Service Managers and Assistant Directors from selected service areas to ensure the escalation process for risk is fully embedded and relevant risks are escalating from ORR to SRR and SRR to CRR where appropriate. It is noted that the escalation process does not appear to be embedded in every Service Area and in some cases SRRs appear to be completed without consideration of ORR content. Some ORRs are not being updated regularly in line with guidance and there are some outliers where ORRs are not routinely in place, and we are continuing to work with Teams to facilitate their completion.

## 2.5 Proposed actions from June 2021

2.5.1 In order to address the issues identified with the embedding of risk management in June 2021, all Assistant Directors were engaged, and the following actions identified and agreed to improve how risk management is embedded within the organisation. As previously reported a number of key actions have been completed with the exception of the following:

2.5.2 It is important that to properly embed risk management that risk is an agenda item on the Departmental Management Team in each of the Service Areas on at least a quarterly basis. *Guidance has been provided previously to Assistant Directors on the proposed agenda item and testing of agenda and minutes was undertaken in January 2023. Testing in June 2023 has confirmed a similar picture with all but one Service Area holding at least one formal agenda item each quarter on risk. Testing in September 2023 confirmed a similar position to June 2023 with the same Service Area not holding a formal agenda item on risk each quarter.*

2.5.3 The sharing of the SRR with the relevant Cabinet Member will take place on a quarterly basis. Assistant Directors were requested to provide evidence in March 2022 that in the last quarters evidence was provided that the SRR had been shared with the relevant Cabinet Member. *Testing in April/ May 2022 as previously reported to the June 2022 Committee update, noted that there had been progress although it was not a consistent picture across all of the Service areas. Testing in June 2023 has confirmed that all but one Service Area has shared their SRR with the relevant Cabinet Member. Testing in September 2023 confirmed that two Service Areas had not or were not sharing their SRR with their Cabinet Member.*

2.5.4 An e-learning package on risk management is to be launched across the Council during the next 12 months. *We had engaged a risk management provider to the Council, through the external Insurance Programme, to develop e-learning training content on risk management which was completed by end of November 2021. The e-learning content had been received and it was identified further enhancements were required to ensure that it was tailored for the right audience. We have refined the content, and the first part of the e-learning training was finished by the end of June 2022. We have road tested the contents with colleagues and are currently working with Learning and Development colleagues*



*from November 2022 and it was envisaged to transfer the content to the e-learning library before wider rollout to Members and colleagues from January 2024. There are some further tweaks issues with the content to make it suitable.*

## **2.6 Risk Appetite**

- 2.6.1 Following the approval of the Council Risk Appetite Framework in March 2023 the Team has designed training for the Departmental Management Team members, in each Service Area, who normally completed the Committee papers. This training has been rolled out over the summer and concluded in September 2023. The Chief Internal Auditor is awaiting confirmation from the Chief Monitoring Officer on timetable for revising the format of Committee paper header to include risk appetite before it can be launched formally across the organisation.

## **2.7 Next steps**

- 2.7.1 Following on from the approval of the Sefton Assurance framework is the consideration of implementing the three lines of defence model which outlines Internal Audit's role in assuring the effective management of risk, and the importance for delivering this of its position and function in the corporate governance. By mapping out the assurance activities from the various three lines of defence on each of the Corporate Risks this should provide better "comfort" to Members and Senior Officers that key risks are being managed effectively. A draft version has been developed and it is envisaged that the final version will be provided in December 2023.
- 2.7.2 The implementation of the three lines model will inevitably require some cultural change in the organisation as there will be the expectation that managers in the 2<sup>nd</sup> line of defence such as Health and Safety, Finance and Procurement amongst many have responsibility for their systems/policies should undertake active monitoring to determine if their policies/ procedures are embedded within the organisation.
- 2.7.3 The Internal Audit Team have been undertaking Assurance Mapping for the past 12 months pulling together mainly external and, in some cases, internal sources of assurance that is used to help shape the draft internal audit plan and inform the Annual Chief Internal Auditor's Opinion. Work will continue to take place to refine the approach including drafting an Assurance Map for the Corporate Risk Register however this has been on hold whilst the CRR has been significantly reviewed.
- 2.7.4 As part of the insurance tender two insurers have included risk bursaries to enable the Council to improve its risk management practices. We are proposing one of the insurers reviews and provides assurance on the Council's Risk Management Strategy during the 2023/2024 financial year. With the other insurer we are seeking to explore holding a horizon scanning session with Strategic Leadership Board to identify and assess longer term risks which may impact on the achievement of the Council's objectives over the next three to five years plus.

## **3. Institute of Internal Auditors "Risk in Focus"**

- 3.1 Risk in Focus is an annual thought leadership research project analysing the top risks faced by organisations across Europe. It is a tool for internal auditors and

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audit committees, and a barometer of what Chief Audit Executives (CAEs) and others perceive as their organisations' risk priorities for 2024 and beyond both in the public and private sector.

- 3.2 With the backdrop of economic uncertainty playing a key theme in this year's Risk in Focus, the report aims to support internal audit and risk management functions in navigating through a poly-crisis of high-impact interlocking risk that organisations are facing today. The term poly crisis reflects the multiple crisis that affecting the UK, corporations and organisations and include for example cost of living crisis, energy crisis and geopolitical tensions.
- 3.3 The publication is attached at Appendix B, and it is interesting note that there is a broad alignment with the risks outlined in the publication and the Council's risk register. Members are asked to note the key risks identified in the publication, the risk priorities and understand how they align to the current strategic risks identified for the Council.

## **4. Summary of the current position**

- 4.1 Substantial work has been undertaken to attempt to embed risk management across the Council over the past six years through designing a risk framework, providing training, and facilitating the Service and Operational Risk Registers using resources across the Risk and Audit Team. Recent work has been drafting the Sefton Assurance Framework and undertaking Assurance Mapping to inform the Annual Chief Internal Auditor's Opinion and the Annual Internal Audit Plan.
- 4.2 There is clear evidence of engagement by the leadership team in terms of regularly reviewing the CRR. To demonstrate that risk management is embedded at this level engagement should be universal and consistent over time as highlighted in the update. Improvements required include the consistent regular updating of SRRs, considering the outcome of the ORR's when looking at SRR and sharing the SRR with the relevant Cabinet Member and the Risk team when requested.
- 4.3 There has been an improvement in the updating of SRRs over the past 12 months although it is not fully embedded. ORRs remain an area to be improved across the Council and we are continuing to work with teams to facilitate this across the organisation.
- 4.4 The implementation of the Council's risk appetite, will help to further embed risk management within the Council and should improve corporate decision making. We are awaiting the redesign of the Committee agenda before this can be finally rolled out across the organisation.
- 4.5 There is further work planned to improve risk management within the organisation through the adoption of Three Lines of Defence model and the Assurance Mapping of key risks as well as horizon scanning for risks over the next three to five years. Work will be undertaken to assess the Council's risk management arrangements during 2024/25 using the Council's risk management bursary.

## **5. Presentation to the Audit and Governance Committee Meeting**

- 5.1 At the Audit and Governance Committee in December 2019 it was agreed that for each meeting a short presentation would be made by a risk owner on one of the risks from the Corporate Risk Register. The briefing, in line with good practice on risk management, should be on the background to the key risk, the current controls and the actions to mitigate the risk further.
- 5.2 A presentation will be provided to Members at the December 2023 meeting on one of the risks from the CRR.

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# 2024

## RISK IN FOCUS

Hot topics for  
internal auditors

## BOARD BRIEFING

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# BOARD BRIEFING: RISK IN FOCUS 2024

## Co-ordinating corporate efforts with agile strategies

Economic uncertainty in 2023 topped a seemingly permanent state of crisis first initiated by the pandemic. Organisations are now grappling with an ensuing polycrisis – with multiple catastrophic events occurring simultaneously. With Europe’s economies in a fragile state, boards must deal with increased climate-related pressures, geopolitical uncertainties, a dangerous cyber-landscape and inflationary pressures. But many organisations face challenges in securing the talent and skills required to navigate through such uncertainties.

Preparing to be resilient for possible trouble and being ready to leap forward when conditions improve are key success factors.

Among other tactics, Boards can be successful by working with their chief audit executives (CAEs) on two key strategies. First, organisations benefit from not seeing their businesses as a set of disparate siloes and by ensuring that effort is well co-ordinated to strengthen risk identification and management. Second, boards can take advantage of internal audit’s unique overview of the organisation to provide consultancy, advice and brainstorming on fast-moving strategically important initiatives.

Getting an upfront risk view on mission-critical projects increases the chance of success.

In this report, CAEs have identified five core areas to help boards focus on over the coming twelve months: macroeconomic uncertainty, cybersecurity, human capital, climate change and supply chains. In addition, they have identified five strategic imperatives for boards seeking to enhance the value provided by internal audit functions.

### Five strategic imperatives for boards

#### Maximising the value of internal audit

1. Support efforts to help CAEs co-ordinate the identification, assessment and management of strategic risks across the three lines
2. Keep a strategic perspective on legislative changes so that compliance efforts are combined with strengthening the business’ longer-term goals and objectives
3. Call upon internal audit’s unique perspective for advice on emerging threats and the implementation of new strategic initiatives
4. Consider internal audit as a valuable source of information in areas such as cultural transformation and on the Environmental, Social and Governance agenda – both important areas for attracting and retaining key talent
5. Use internal audit to embed long-term resilience into operational infrastructure and supply chains and to help management develop and actively test business continuity and disaster recovery programmes



# Key findings 2023 vs 2024

## What are the top five risks your organisation currently faces?

Business continuity and operational resilience moved up two places this year in response to continuing global turmoil with market changes coming in as a new category

■ 2024  
■ 2023

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## HOT TOPICS

# MACROECONOMIC AND GEOPOLITICAL UNCERTAINTY

## Focusing on strategic transformation

Chief audit executives ranked macroeconomic and geopolitical uncertainty as the third biggest risk to organisations in the report's quantitative survey – jointly with changes to laws and regulations. Yet while organisations **P**o grips with geopolitics last year, this year **Page 24** higher inflation, and a higher interest environment they focused heavily on the **24** ighing economic landscape.

This category includes a wide range of interconnected risks – from supply chains and changes in customer behaviour to financial liquidity, insolvency and fraud risk.

Board members could work with their CAEs to keep a firm strategic lens on the operational changes they make to tackle these risks. Cost cutting, for example, can be backed up with cost-benefit analyses that ensure payback does not jeopardise long-term success.

Supply chain resilience is another critical area in light of political de-globalisation trends and climate-related events.

CAEs can help by providing advisory services that help co-ordinate effort across the organisation's three lines – and by ensuring assurance is well-targeted. Data analytics can help with monitoring key risks. Risk remediation follow-up in areas of critical strategic importance must be firm.

Boards, should help ensure that internal audit has the time, technology, skills and resources to deal with these fast-moving areas effectively.





## HOT TOPICS

# CYBERSECURITY AND DATA SECURITY

## Getting ready for regulatory change

Cybersecurity is the biggest persistent threat to Europe's organisations, according to CAEs responding to the report's quantitative survey: 84% ranked it as a top five threat. That was matched by internal audit effort – 79% said it was a top five area of focus.

Page 25  
While ransomware attacks, industrialised phishing and state-sponsored cybercrime gained major threats, the rate of growth in the magnitude of the risk has eased. Awareness among boards and management is high.

But in sound risk management, complacency is not an option. Not only do boards need to ensure their organisations are resilient in the face of disruptive technologies such as AI, but they are prepared for (and have the talent to cope with) a broad range of new cybersecurity and data security regulations coming into force over the next couple of years. The EU's Data

Act and Cyber Resilience Act – to name just two - will help standardise cyber defences but also bring fines for non-compliance – a new regulatory threat.

Given that AI can be a major business enabler, and as organisations continue to move their operating systems onto digital platforms, internal auditors can help in ensuring these are secure, compliant and have solid disaster recovery plans in place for when trouble strikes.

CAEs have been working with IT departments to develop digital cyber security systems to monitor, detect and react to attacks. Boards have a role to play in participating in scenario testing events for ransomware attacks, for example, and supporting awareness-raising initiatives so that the culture around cybersecurity matures.



## HOT TOPICS

# HUMAN CAPITAL, DIVERSITY, TALENT MANAGEMENT AND RETENTION

## Transforming organisational culture

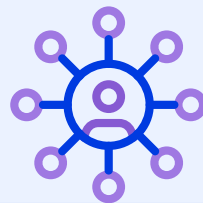
Human capital remained the second biggest risk organisations face according to the quantitative survey: 58% of CAEs cited it as a top five risk. They expect it to remain in that position by 2027.

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The cost-of-living and doing business issues, boards must balance the effect of pay increases on the bottom line with an ability to fill strategically important roles in their organisations. But with changing attitudes to employment practices – such as demands for more flexibility and hybrid styles of work – some boards have found that their organisational culture lags broader social trends.

Businesses that focus on achieving cultural transformation fare best – boosting diversity in the workplace creates more profitable businesses and clearly communicating an organisation's wider social purpose can act as a magnet to attract younger staff. People need to

feel listened to and safe to speak out in cultures that engender diversity of thought.

Boards have not always turned to CAEs for help in these softer areas of business – but that represents a missed opportunity. While traditional assurance metrics on policies and procedures have their place, internal auditors can provide a balance of well-targeted audits in key areas as well as rapid informal assessments that keep the board informed of fast-moving problems and tap into the cultural mood of the business.



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58% of respondents cited **Human Capital** as a top five risk. They expect it to remain in that position by 2027.

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## HOT TOPICS

# CLIMATE CHANGE, BIODIVERSITY AND ENVIRONMENTAL SUSTAINABILITY RETENTION

## Embracing ESG in the corporate mission

With two of the hottest European summers on record and climate-related disasters happening around the world, the weather has put the environment firmly on board agendas. The Page 27 tion of critical business infrastructure, the availability of manufacturing resources and suppliers have become strategic issues. growing public, investor and regulatory attention, CAEs in the quantitative survey said that climate change will be the 3rd biggest risk organisations face by 2027.

Together with other regulations and standards, Europe's Corporate Sustainability Reporting Directive came into force in 2023 and has shone the spotlight on company disclosures. At the same time, as organisations rush to enhance their green credentials in the marketplace, poor data quality raises the risk of greenwashing.

Treating such disclosures as a compliance-driven activity is a missed opportunity. But boards can work with CAEs to retain a strategic focus. That ensures that the organisation's objectives are built on solid data and that sustainability goals are firmly grounded in the broader corporate mission. Building relationships with key external stakeholders such as specialist NGOs can not only improve the quality of reporting data but help boost a company's reputation.

Internal auditors can provide assurance that such regulations not only apply to businesses' operations but also extend to their environmental and social impacts through suppliers. Boards looking to gain competitive advantage can adopt such double materiality measurements to provide much deeper, more meaningful insights into climate-related risks and opportunities.



## HOT TOPICS

# SUPPLY CHAIN, OUTSOURCING AND NTH PARTY RISK RETENTION

## Strengthening critical partnerships

The pandemic, climate change and heightened geopolitical tensions helped push supply chain relationships into the spotlight during 2023. CAEs ranked it as their organisations' 7th biggest risk in the quantitative survey.

Globalisation trends accelerated by the pandemic and the US' decoupling strategy as the Inflation Reduction Act aimed at attracting corporations to move to North America. Such trends threaten to accelerate a weakening of global supply chain infrastructures.

In the qualitative research for Risk in Focus 2024, CAEs said supply chain diversification was a crucial strategy – but attention has switched to securing critical materials from wherever possible. CAEs can help boards in either supporting innovation into new materials or in finding ways to partner tightly with critical suppliers. In addition, co-ordinating efforts

across the business to create, test and run through business continuity planning and disaster recovery procedures has never been more important. Boards can support CAEs in encouraging management to fully engage with these critical initiatives.

To complicate matters, the European Union voted to back enhanced scrutiny of supplier relationships in its Corporate Sustainability Due Diligence Directive. CAEs can support the board in identifying potential compliance hotspots improving the resilience of the supply chain network through stronger due diligence processes.





# ABOUT RISK IN FOCUS

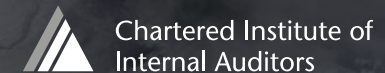
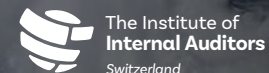
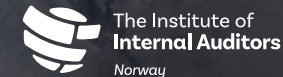
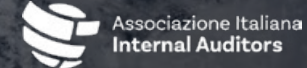
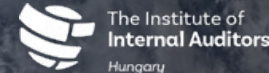
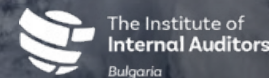
For the past eight years, Risk in Focus has sought to highlight key risk areas to help internal auditors prepare their independent risk assessment work, annual planning and audit scoping. It helps Chief Audit Executives (CAEs) to understand how their peers view today's risk landscape as they prepare their forthcoming audit plans for the year ahead.

This year, Risk in Focus 2024 involved a collaboration between 16 European Institutes of Internal Auditors, spanning 17 countries which included Austria, Belgium, Bulgaria, France, Germany, Greece, Hungary, Italy, Luxembourg, The Netherlands, Norway, Poland, Spain, Sweden, Switzerland, and the UK & Ireland. The highest number of European countries involved so far.

The survey elicited 799 responses from CAEs across Europe. Simultaneously, five roundtable discussions were organised with 46 CAEs on each of the risk areas covered in the report. In addition, we also conducted 11 one-to-one interviews with subject matter experts that included CAEs,

Fit Committee Chairs and industry experts to provide deeper insights into how these risks are manifesting and developing.

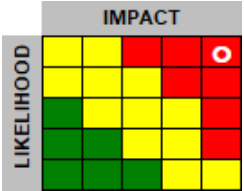
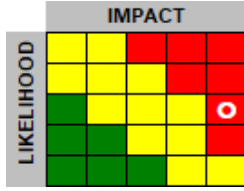
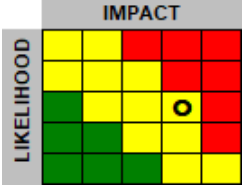
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## Appendix A - Corporate Risk Register December 2023

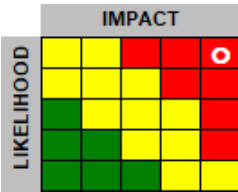
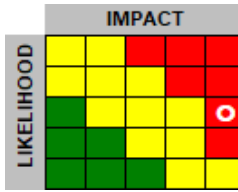
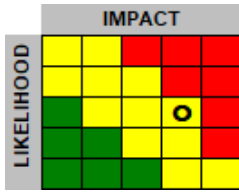
Risk Description	Previous risk score	Current risk score	Target risk score
Financial Sustainability Beyond 2023/24			
<b>Causes</b>	<ul style="list-style-type: none"> <li>The national economy taking into account inflation and direct government funding which has been reflected in the financial settlement for 2023/24 and planning assumptions for 2024/25 and the demand for services will place substantial strain on the Council's overall medium-term budget.</li> <li>As a result, significant budget and cost reductions will be required. Due to the scale of budget reductions made since 2010 there is a risk that further suitable cost-saving / income generating measures will be difficult to identify.</li> <li>The impact on the financial sustainability of the Council is therefore a key risk.</li> </ul>		
<b>Result</b>	<ul style="list-style-type: none"> <li>The Council will need to identify substantial sustainable savings to meet the funding gap that arises from inflation, potential government grant reductions and increased demand for services for the next 3-year period 2024/25 to 2026/27.</li> <li>The Budget reductions could have an adverse impact on residents and communities.</li> <li>The reputation of the Council may be compromised.</li> <li>Financial sustainability could be compromised.</li> </ul>		
<b>Current treatment and controls</b>	<ul style="list-style-type: none"> <li>The council set a budget for 2023/24 at its meeting on 2 March 2023. Substantial investment has been made into ASC, CSC, and home to school transport as part of this and this is where the financial risk exists- robust financial management and monitoring will be required for the delivery of the approved budget. If there are any variations to the approved budget remedial plans will need to be put in place from within the already approved budget. The council does have an appropriate level of general fund reserves however these do not offer the scope to address a budget gap similar to that experienced in 2022/23.</li> <li>Within that budget report the key issues that need to be addressed within the next MTFP are identified and work commenced from May 23 on refining these assumptions and the potential budget gap for these next 3 years 2024/25 to 2026/27- this was reflected in the MTFP considered by Cabinet and Council in September 23. Work has commenced on bridging the budget in accordance with the budget planning timetable and will be reported to Members. This is key to the financial sustainability of the council with the key risk remaining being Children's Services. This has been mitigated for 23/24 by all budget assumptions having been agreed with the DCS which ensured that the MTFP for the council was aligned to the improvement plan and provided the service with the resources required to meet this plan but it is clear that this risk remains.</li> </ul>		
<b>Risk owner</b>	<ul style="list-style-type: none"> <li>Executive Director Corporate Resources &amp; Customer Services</li> </ul>		

## Appendix A - Corporate Risk Register December 2023

<b>Proposed actions</b>	<ul style="list-style-type: none"><li>• Key financial risk for 2023/24 is delivery of savings and Children's Social Care delivering services within budget agreed with DCS - regular and rigorous financial management, monitoring and reporting is required by SLB to inform Cabinet decision making and this is in place.</li><li>• SLB have commenced work on the 3-year budget plan for 2024/25 to 2026/27 with a view to setting a 3-year budget plan and this has been informed by the MTFP that was considered by Cabinet and Council in September 2023.</li></ul>
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Appendix A - Corporate Risk Register December 2023

Risk Description	Previous risk score	Current risk score	Target risk score
<p>Dedicated Schools Grant High Needs Funding for Special Educational Needs is inadequate to meet requirements.</p>			
<p><b>Causes</b></p>	<ul style="list-style-type: none"> <li>• High Needs budgets are under considerable pressure from increasing numbers of children being diagnosed with complex and life-long SEND related issues.</li> <li>• National funding allocations are not increasing annually at a rate to reflect increases in local population demand and so any additional commissioned places need to be financed from within existing budget envelope.</li> <li>• The number and value of requests from mainstream schools for "top-up" funding (for children with SEND) continues to increase year on year as schools face financial pressures to meet the first £6k of any SEN Support.</li> <li>• Maintained special school provision is full and more children are being placed in independent provision which is more expensive. Whilst this issue is being addressed through extra In-house provision, there remain risks that external placements may continue at high additional cost.</li> <li>• Central Government have advocated parental preference for SEND provision - which has added to the number of children being placed in independent provision - with no additional funding.</li> <li>• The current accounting override whereby the HNF deficit is ringfenced will continue until April 2026, but the increasing accumulative deficit poses a significant financial risk to the council</li> </ul>		
<p><b>Result</b></p>	<ul style="list-style-type: none"> <li>• Sefton's High Needs cumulative budget deficit is £18m at the end of 22/23.</li> <li>• The estimated deficit on the high needs block continues to be held on the Council's Balance Sheet. Whilst the current DfE regulations do not expect the Local Authority's General Fund to cover accumulated deficits, this is still only on a temporary basis until 2026. The council does not have the reserves or balances to meet this deficit if required in 2026 hence the threat to financial sustainability.</li> <li>• This is a significant risk to the council and quarterly monitoring statements will continue to be reported to cabinet throughout the 2023/24 financial year.</li> </ul>		
<p><b>Current treatment and controls</b></p>	<ul style="list-style-type: none"> <li>• The quarterly reporting to Cabinet and Council should focus on the work program that seeks to improve the support to children, the demand for the service and the financial forecast- it should also take full account of the progress in the DFEE led Delivering Better Value, sufficiency, in-house provision, funding and the forecast deficit to provide rigor, transparency and inform decision making.</li> <li>• Leadership from Sefton's Executive Director of Children's Social Care and Education, Assistant Director of Education, and the SEN team Managers on how costs can be contained.</li> <li>• Sufficiency statement produced that will drive future strategy and financial sustainability.</li> <li>• Lobbying and engagement of DLUHC, DfE and MCCLG on financial impact and the need for increased support or confirmation that this will continue to be a DSG issue post 2026.</li> <li>• Engagement with special schools actively working with individual schools to review impact of any proposed changes to their funding, reviewing three-year financial plans, identifying any strategic savings to mitigate high calls on DSG High</li> </ul>		

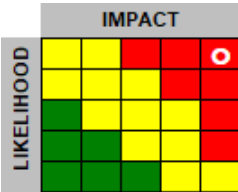
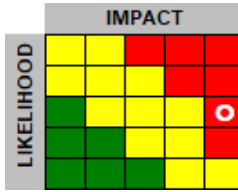
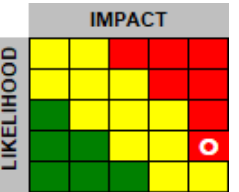
**Appendix A - Corporate Risk Register December 2023**

	<p>Needs funding.</p> <ul style="list-style-type: none"> <li>• Review of place and top up levels of funding.</li> <li>• In addition, further work is being undertaken on alleviating the barriers to inclusivity within mainstream settings and assessment of effectiveness of capital spend to maximise mainstream settings for children and young people.</li> <li>• Council now part of DfE Delivering Better Value Program-it should be noted however that this is focused on the system and not on delivering financial sustainability therefore the council cannot rely on this programme to meet its key financial objective.</li> </ul>
<p><b>Risk owner</b></p>	<p>Assistant Director Children's Services (Education)</p>
<p><b>Proposed actions</b></p>	<ul style="list-style-type: none"> <li>• Through the High Needs Review the LA has been working on two specific workstreams with School representatives working on a number of key areas:</li> <li>• Developing a new funding model to support children with EHCPs.</li> <li>• Clarifying high needs funding outside of the EHCP process.</li> <li>• Reviewing provision and placement sufficiency.</li> <li>• Considering new ways of working with SEN children in schools, making them more cost effective and with good outcomes.</li> <li>• Review of the graduated response and supporting SEN leadership in schools.</li> <li>• Sefton has been working in partnership with the DfE since December 2022 to develop solutions to bring the High Needs Budget into a more financially secure position going forward and help to reduce the accumulated deficit over a set period.</li> <li>• The sign off of the High Needs Deficit action plan through the Delivering Better Value Programme was completed in June 2023 and a work programme of planned improvements and changes in SEN support for HN children commenced which should reduce projected deficit but also improve outcome for SEN children in Sefton</li> </ul>

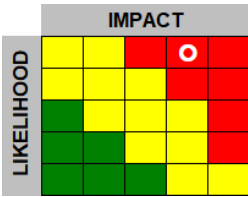
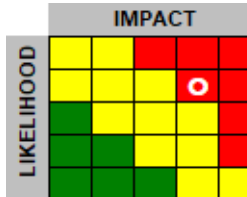
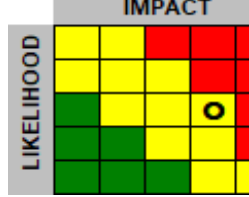
Appendix A - Corporate Risk Register December 2023

Risk Description	Previous risk score	Current risk score	Target risk score
The Council is the victim of a cyber-attack.			
<b>Causes</b>	Malware, ransomware, or another virus infects the Council's systems.		
<b>Result</b>	<ul style="list-style-type: none"> <li>Services will not have access to systems and data as standard and will have to fall back on non-ICT delivery methods, albeit without access to key data.</li> <li>Data breach occurs.</li> <li>Financial impact of ransom.</li> <li>Reputational damage</li> </ul>		
<b>Current treatment and controls</b>	<ul style="list-style-type: none"> <li>Cyberattack prevention measures are in place, including.                             <ul style="list-style-type: none"> <li>- Upgraded Council firewalls and active SIEM monitoring service.</li> <li>- Anti malware tools</li> <li>- New Acceptable use policy</li> <li>- LGA Stock take completed</li> <li>- PSN Accreditation achieved and reviewed annually</li> <li>- New security standards for email encryption implemented</li> <li>- Further network security in place to reduce risk</li> </ul> </li> <li>Back-up disaster recovery facility is in place at a separate site, allowing Agilisys to restore the top 20 critical systems.</li> <li>Agilisys has a Business Continuity-Disaster Recovery plan in place which covers an action plan for this priority restoration, and the subsequent restoration of all other systems.</li> <li>Ongoing monitoring in in place via ICT governance arrangements</li> <li>Windows Defender anti-virus software is constantly updated alongside ESET also deployed.</li> <li>Communication to employees regarding the rise in malware attacks is in place, with an enhanced training offer in place.</li> <li>Review of Cyber Incident planning completed and revised policy released.</li> <li>Removal of unsupported systems from the network and segregation in place as required</li> </ul>		
<b>Risk owner</b>	ED CR&CS		
<b>Proposed actions</b>	<ul style="list-style-type: none"> <li>The ongoing ICT Transformation programme has seen most systems and data migrated to Microsoft Azure cloud hosting, which will reduce the overall risk; and improve Business continuity however further work is underway to improve the current security posture further.</li> <li>Ongoing Cyber Security Improvement plan in place, including plans to bring all systems in the support of the existing ICT Contract</li> <li>External validation and assurance ongoing linked to improvement plan.</li> </ul>		


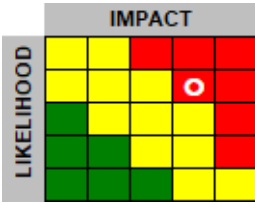
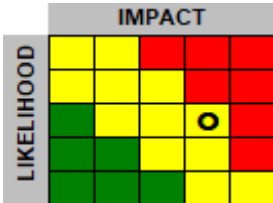
Appendix A - Corporate Risk Register December 2023

Risk Description	Previous risk score	Current risk score	Target risk score
<p>Inadequate capability to prepare for and respond effectively to a Major Incident affecting the Council or occurring in Sefton as per the Council's responsibilities under the Civil Contingencies Act 2004.</p>			
<b>Causes</b>	A major incident occurs affecting the Council or the Borough		
<b>Result</b>	<ul style="list-style-type: none"> <li>• Loss of human life, illness, or serious injury</li> <li>• Major damage or destruction to infrastructure, property and/or the environment</li> <li>• Disruption or loss of critical services such as transport, communications, utility services</li> <li>• Reputational or financial harm to the authority</li> </ul>		
<b>Current treatment and controls</b>	<ul style="list-style-type: none"> <li>• Emergency Response Manual and Major Incident Guidance in place.</li> <li>• Revised Command and Control structure in place which defines Strategic and Tactical level officers.</li> <li>• Emergency Duty Co-Ordinator's (EDCs) can access Resilience Direct containing incident response plans.</li> <li>• Relevant training provided to Emergency Duty Co-Ordinator's and volunteers on an ongoing basis.</li> <li>• Five EDCs have now completed Multi Agency Gold Incident Commander (MAGIC) accredited training.</li> <li>• Attendance and participation in Merseyside Resilience Forum and joint planning across Merseyside.</li> <li>• Humanitarian volunteers in place and regular meetings and training now offered.</li> <li>• Continuous development and review of supporting plans.</li> <li>• Service Level Business Continuity plans now completed. Business Continuity eLearning package available to all staff</li> <li>• Business Continuity risk register completed and review on quarterly basis.</li> <li>• Business Continuity Policy and strategy have been devised and approved.</li> <li>• BC exercise completed in January 2023 for Senior Leadership Board</li> </ul>		
<b>Risk owner</b>	CEX/ED CR&CS		
<b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• A Business Continuity Management System has been devised and is currently being implemented. This includes the following:</li> <li>• Six monthly review of BC plans and activation exercise undertaken to confirm accuracy of contact details included.</li> <li>• External provider to continually provide support in hosting regular BC exercises for all Exec/Assistant Directors.</li> <li>• Review and update of BC manual ongoing</li> <li>• Initiate planning for the introduction of Martyn's Law</li> </ul>		


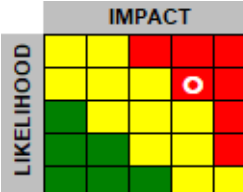
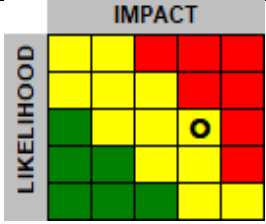
Appendix A - Corporate Risk Register December 2023

Risk Description	Previous risk score	Current risk score	Target risk score
Market Failure of Social Care Provision across Adults and Children's			
<b>Causes</b>	<ul style="list-style-type: none"> <li>• Lack of national response to the Independent Review of Children's Social Care and report by the Competition and Markets Authority calling for action on the children's social care market</li> <li>• National and regional pressures in Social Work recruitment and available workforce</li> <li>• Sufficiency in children's residential provision</li> <li>• Inflation</li> </ul>		
<b>Result</b>	<ul style="list-style-type: none"> <li>• Lack of alternative providers able to support social care.</li> <li>• Poor quality service provision and high costs</li> <li>• Increase in unmet needs of children and young people due to a fragile market that is not developing.</li> <li>• Inability to meet sufficiency duty.</li> <li>• Growing number of children placed out of borough with more LA's placing young people within Borough, placing additional pressure on ASC markets linked to transitions.</li> <li>• Reliance on high cost out of borough residential provision for children and young people</li> </ul>		
<b>Current treatment and controls</b>	<ul style="list-style-type: none"> <li>• Joint Strategic Needs Assessment and supporting Children's Chapters</li> <li>• Market Position Statement and refresh of Children's Sufficiency strategy 22-25</li> <li>• Strengthened governance - Executive Commissioning Group/Strategic Commissioning Group</li> <li>• Strategic Commissioning Team - increased interim capacity.</li> <li>• Commissioning priorities reset and improvement plan in place.</li> <li>• Local Dynamic Purchasing system - approved by Cabinet.</li> <li>• Re-procurement framework development has now commenced, and update scheduled for Cabinet.</li> <li>• Strengthened oversight of Quality Assurance with dedicated Senior Manager support will add the ability to refocus quality assurance resources on identified areas of risk in the market and gather intelligence to inform risks and ensure resilience and capacity.</li> </ul>		
<b>Risk owner</b>	Executive Director of Children's Services		
<b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Development of new opportunities through Sefton Place Based Partnership development.</li> <li>• Children's High Risk/High-Cost Project, Commissioning priorities and full work plan in progress</li> <li>• Development of contingency plans for provider failure - risk escalation process</li> <li>• Links maintained with LCR on key market risks (capacity, workforce, cost of living, ceasing of covid funding, demand)</li> <li>• Develop business case for inhouse provision of Children's residential care</li> </ul>		

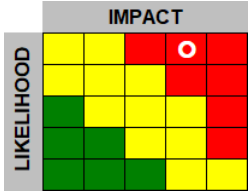
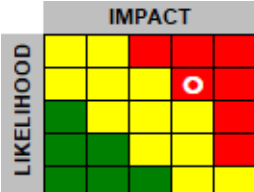
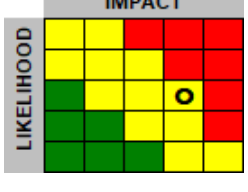
Appendix A - Corporate Risk Register December 2023

Risk Description	Previous risk score	Current risk score	Target risk score
Demand and Cost of Home to School Transport – Impact on the Financial Sustainability of the Council			
<b>Causes</b>	Increasing expenditure is being driven by: <ul style="list-style-type: none"> <li>• The rising number of children and young people with an Education Health and care plan.</li> <li>• The rising number of children and young people whose needs are not met in local mainstream provision and placed in educational provision outside the local area.</li> <li>• The rising cost of fuel and living.</li> <li>• Driver and escort shortages, competing for scarce resources</li> </ul>		
<b>Result</b>	<ul style="list-style-type: none"> <li>• Supply unable to match demand.</li> <li>• Increased waiting time for service users, impact on school attendance</li> <li>• Financial and reputational risks, financial sustainability of council could be compromised, budget pressure cannot be contained.</li> <li>• Capacity of the workforce to meet this demand.</li> <li>• Potential for poor service delivery</li> <li>• Negative socio-economic impact</li> <li>• High level of media and public interest in the council's actions</li> <li>• Loss of reputation</li> </ul>		
<b>Current treatment and controls</b>	<ul style="list-style-type: none"> <li>• Report to Leadership Team and Cabinet</li> <li>• Engagement with SEND on how demand can be contained.</li> <li>• Review of in-house Fleet and Post 16 Charging Policy</li> <li>• Monthly finance reports.</li> <li>• Ongoing review of all position</li> <li>• Personal Travel Budgets.</li> </ul>		
<b>Risk owner</b>	Assistant Director Children's Services (Education)		
<b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Comprehensive project to be undertaken to review provision.</li> <li>• This project will need to cover each aspect of the service inc in-house/external provision, use of taxis, procurement activity, reassessment, use of personal budgets etc.</li> <li>• Scope and project launch to be completed by December 2023</li> <li>• Full project to be completed by end of August 2024</li> </ul>		

Appendix A - Corporate Risk Register December 2023

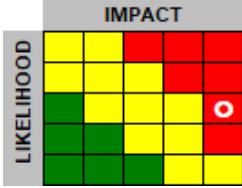
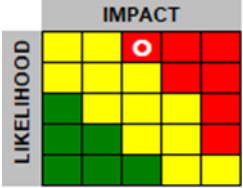
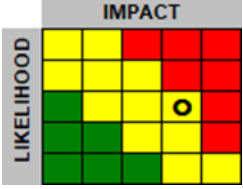
Risk Description	Previous risk score	Current risk score	Target risk score
Children's Services - Impact of Regulatory Framework Outcomes			
<b>Causes</b>	<ul style="list-style-type: none"> <li>The Council's Children's Services are currently rated as Inadequate. As a result the council is currently delivering it's improvement with the support of a Commissioner and DFE advisor.</li> </ul>		
<b>Result</b>	<ul style="list-style-type: none"> <li>Social work practice does not meet the standard required.</li> <li>Services are found to not adequately safeguard children.</li> <li>Reputational damage to the Council and Statutory partners</li> <li>Loss of confidence in partnership arrangements</li> <li>Workforce and financial pressures develop.</li> </ul>		
<b>Current treatment and controls</b>	<ul style="list-style-type: none"> <li>Improvement board established under DfE improvement notice.</li> <li>DfE Advisor supporting Improvement Programme</li> <li>Regular reports to Overview &amp; Scrutiny Committee</li> <li>Self-evaluation has been refreshed and updated.</li> <li>Comprehensive Performance dashboard developed based on required specification</li> <li>Quality Assurance Framework in place</li> <li>Practice Standards in place</li> <li>Triangulation of evidence through audit and peer review, regular auditing, and monitoring of performance.</li> <li>Workforce strategy in place and delivering skilled and stable workforce.</li> <li>Financial plan in place based on DCS requirement.</li> <li>Accommodation in place for consolidated service.</li> </ul>		
<b>Risk owner</b>	Executive Director of Children's Services		
<b>Proposed actions</b>	<ul style="list-style-type: none"> <li>Role of Improvement Board to provide oversight, guidance and support will continue and will meet bi-monthly.</li> <li>The council will continue to progress the delivery of recommendations made by Children's Commissioner and the Improvement plan.</li> <li>Report progress and risks to Overview &amp; Scrutiny Committee each cycle in addition to Improvement Board.</li> </ul>		

Appendix A - Corporate Risk Register December 2023

Risk Description	Previous risk score	Current risk score	Target risk score
Requirement to work collaboratively with Sefton New Directions to review delivery model, in order to meet market requirements and promote financial sustainability; identify opportunities and future risk mitigation.			
<b>Causes</b>	<ul style="list-style-type: none"> <li>Sefton New Directions (SND) was set up as a wholly owned company by the Council in 2007 as a private company.</li> <li>Due to the increased complexity and acuity within the social care market there is a need for the company to transform to meet demand. This is within the context of financial and workforce challenges. In 22/23 SND incurred a loss of £1m which impacted on their reserves. Further financial challenges have been identified for 23/24 (including proposed investment and further reduction in reserves) which will impact on financial sustainability hence the need to transform.</li> <li>SND are also impacted by wider social /economic challenges faced by all providers</li> </ul>		
<b>Result</b>	<ul style="list-style-type: none"> <li>Inability to meet demand and provide the volume of support for individuals identified with eligible care and support needs.</li> <li>Recruitment challenges impacting on workforce capacity to deliver services.</li> <li>Requirement for ASC to commission alternative support leading to increased costs and budgetary pressures.</li> <li>Risk to financial viability and sustainability of the company</li> </ul>		
<b>Current treatment and controls</b>	<ul style="list-style-type: none"> <li>A strategic review of services being undertaken in collaboration with SND - including financial viability, forecasting and transformational requirements.</li> <li>Internal escalation arrangements and oversight of risk by Chief Executive-</li> <li>The council has received assurance that this position has been shared with SND Board who are fully engaged in the review.</li> <li>Conclusion of review is planned for end of November 23 with a report being presented to Cabinet in December 23 .</li> </ul>		
<b>Risk owner</b>	Executive Director Adult Social Care and Health / NHS Place Director		
<b>Proposed actions</b>	<ul style="list-style-type: none"> <li>Comprehensive report to be provided to Cabinet in December 23 outlining findings of strategic review and proposed options for consideration.</li> </ul>		

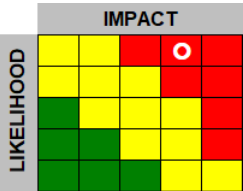
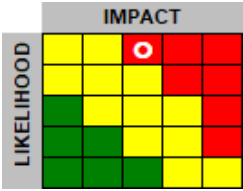
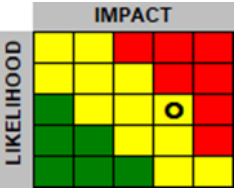


Appendix A - Corporate Risk Register December 2023

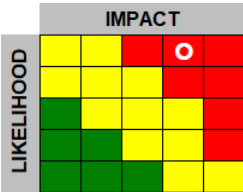
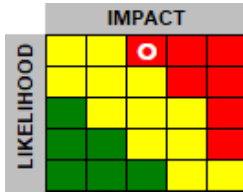
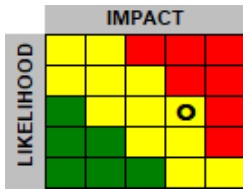
Risk Description	Previous risk score	Current risk score	Target risk score
<p>Failure to Comply with Sections 1 and 10 of the Freedom of Information Act 2000</p>			
<p><b>Causes</b></p>	<ul style="list-style-type: none"> <li>• A person requesting information from a public authority has a right, subject to exemptions, to be informed by the public authority in writing whether it holds the information, and to have that communicated to him, if the public authority holds it (section 1 of The Freedom of Information Act 2000). Section 10(1) specifies that public authorities must respond to requests within 20 working days.</li> <li>• A public authority which fails to comply with any of the requirements of Part I of the FOIA, may be served with a notice by the Information Commissioner (referred to as an ‘enforcement notice’) requiring the authority ‘to take within such time as may be specified in the notice, such steps as may be so specified for complying with those requirements’ (section 52(1)).</li> <li>• Compliance performance levels differ across the Council, due to the demands on particular service areas. Consistency is required in terms of prioritising responses to FOIA requests so that the Council ensures it responds to requests in a timely way.</li> </ul>		
<p><b>Result</b></p>	<ul style="list-style-type: none"> <li>• Failure to comply with legal requirements.</li> <li>• Enforcement action by the Information Commissioner’s Office</li> <li>• Damage to the Council’s reputation</li> <li>• Loss of public confidence</li> <li>• Diversion of resource and financial consequences</li> </ul>		
<p><b>Current treatment and controls</b></p>	<ul style="list-style-type: none"> <li>• Information management and governance, including compliance with the Freedom of Information Act is overseen by the Information Management and Governance Executive Group (IMGEG), which consists of officers with lead responsibilities for key aspects of information compliance (i.e., Data Protection Officer / IG Lead, Senior Information Risk Owner, and Chief legal and Democratic officer) supported by other officers with key roles relating to IMG.</li> <li>• Each service is responsible for the handling and management of FOIA requests made to their respective service area.</li> <li>• Each service has designated Information Asset Owners and Information Asset Administrators.</li> <li>• Policies, procedures, processes, and issues are communicated to these officers through the Information Management and Governance Operational group.</li> <li>• Support, co-ordination, advice, and guidance is provided corporately.</li> <li>• The council has implemented policies, procedures, and processes to assist the management of FOIA requests made to the council.</li> </ul>		
<p><b>Risk owner</b></p>	<p>CEX/ED CR&amp;CS</p>		

<p><b>Proposed actions</b></p>	<p>SLB to ensure Appropriate resourcing, prioritisation and focus on information management and governance across the Council include the following:</p> <ul style="list-style-type: none"><li>• Monthly reporting to Heads of Service of a list of any outstanding FOIA requests, to ensure appropriate action across their service.</li><li>• Regular monitoring and review by IMGEG of compliance with statutory timescales associated with requests and numbers outstanding.</li><li>• Set targets to ensure compliance with ICO recommendations (95% or more of requests are responded to within 20 working days = good, 90 to 95% of requests are responded to within 20 working days = adequate, fewer than 90% = unsatisfactory).</li><li>• Regular reporting by IMGEG to SLB and Audit and Governance Committee, as necessary, as to the Council's compliance with the FOIA.</li><li>• Maximise the opportunities from the Council's ICT Transformation to increase and embed effective information management and governance.</li></ul>
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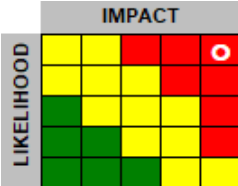
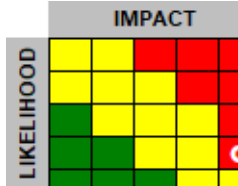
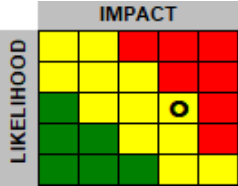
Appendix A - Corporate Risk Register December 2023

Risk Description	Previous risk score	Current risk score	Target risk score
<p>Ability of the Council to Recruit to its Workforce in order to Deliver its Core Purpose.</p>			
<b>Causes</b>	<p>Due to the contraction of the labour market both nationally and locally the council cannot recruit sufficiently skilled staff to meet business need.</p>		
<b>Result</b>	<ul style="list-style-type: none"> <li>The Council does not have the capacity to deliver the services it needs to at the pace or standard required.</li> <li>Due to the contraction in the market the council cannot recruit to key roles - over the past 12 months this has been evident in Social Care, Regeneration, Procurement, Performance, Property and Finance</li> <li>Such a scenario places increased pressure on the workforce that cannot be maintained over the long term.</li> <li>In addition to the lack of candidates in the market seeking permanent employment and a reduction in availability of temporary or agency staff, the cost of bringing in temporary cover is increasing exponentially this creating budget pressure</li> </ul>		
<b>Current treatment and controls</b>	<ul style="list-style-type: none"> <li>The Council's approach to recruitment and retention has been and will continually be the subject of review. This is a key theme within the recently approved workforce strategy and action plan.</li> <li>The Council is building on the success in some areas will seek to 'grow its own' workforce with the promotion of apprenticeships, the social worker academy, and graduate programmes.</li> <li>The Council will seek to continually enhance its culture in order that staff remain in Sefton.</li> <li>The Council will work with Liverpool City Region Partners to recruit talent nationally and look at training and development programmes across the region that will be attractive to potential candidates.</li> </ul>		
<b>Risk Owner</b>	<p>ED CR&amp;CS</p>		
<b>Proposed Actions</b>	<ul style="list-style-type: none"> <li>The action plan for the workforce strategy details the key activities that will be undertaken to maximise the council's position in the workforce market.</li> <li>Extensive work has been undertaken within Childrens services over the last 18 months to ensure that a skilled and stable workforce can be recruited to and retained. This includes a full review of pay and benefits the development of the social worker academy and the recruitment of overseas social workers. this work will continue to support the service and similar activities and innovation will take place across the council.</li> <li>Work has commenced with Liverpool John Moores University to determine how pathways can be opened for graduates to join the council both on interim placements and full-time employment.</li> </ul>		

Appendix A - Corporate Risk Register December 2023

Risk Description	Previous risk score	Current risk score	Target risk score
Failure to ensure readiness for the planned National Assurance framework for Adult Social Care (due 23/24)			
<b>Causes</b>	Lack of sufficient preparedness for CQC Regulatory Visit and Assessment		
<b>Result</b>	<ul style="list-style-type: none"> <li>• Poor outcome of a CQC regulatory assessment and poor rating</li> <li>• Poor outcomes for individuals / Carers identified.</li> <li>• Service deemed to not be effectively discharging statutory duties for those adults with care and support needs in one or more areas of the assurance framework.</li> <li>• Loss of confidence with local residents.</li> <li>• Significant reputational damage to the Council and with statutory partners.</li> <li>• Impact on recruitment and retention of staff</li> </ul>		
<b>Current treatment and controls</b>	<ul style="list-style-type: none"> <li>• The Social Care Executive Assurance Board has been established for oversight of readiness and regular reporting to ELT.</li> <li>• Assurance Leads and Champions identified supporting each Assurance Theme in our Weekly Assurance Steering Group reviewing evidence based action plans linked to Peer Review Action Plan.</li> <li>• Codesign partners, workforce and colleagues' workshops taken place over May/June and July, including Strength Based Workshops for staff. Staff briefings have commenced and are ongoing, supported by a CQC Assessment Q&amp;A approach.</li> <li>• ASC is member of NWADASS SLI Board and NW Performance Leads Group to receive updates regarding readiness for CQC assessment.</li> <li>• Performance framework and dashboard has been developed linked to national CQC Outcomes framework.</li> <li>• LGA Peer Review completed July 2022 and reported to Cabinet / O&amp;S, assurance plan and monitoring put in place.</li> <li>• Participated in local Oldham CQC Assessment peer challenge sessions &amp; CQC test and learn workshop – Manchester Council.</li> <li>• Quality Assurance Framework established - Professional Practice Forum in place for staff.</li> <li>• SMT and Assurance Governance review has been completed.</li> <li>• Resource impact reporting taking place, to identify gaps in assurance resources.</li> </ul>		
<b>Risk owner</b>	Executive Director of Adult Social Care		
<b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Communication and coproduction to continue with staff, partners, and people with lived experience as per schedule.</li> <li>• Schedule of reporting on progress to be agreed for OS committee.</li> <li>• Completion of the CQC self-assessment assurance Part 1 LGA Checklist</li> <li>• Completion of Quality Assurance Statements for each Theme as part of Phase 2 preparations</li> <li>• Corporate colleagues to provide details of enabling support and risks in delivery.</li> <li>• Targeted action plans in place for all areas identified as requiring action</li> </ul>		

## Appendix A - Corporate Risk Register December 2023

Risk Description	Previous risk score	Current risk score	Target risk score
<p>Inability to deliver the Requirements and Commitments for the Growth Program and its Associated Projects</p>			
<p><b>Causes</b></p>	<ul style="list-style-type: none"> <li>• Required Capital and Revenue funding not available to deliver the projects for Economic Recovery and Growth. This can be due to unavailability or timing of funds available.</li> <li>• External pressures affecting the construction sector, leading to challenges to project deliverability, affordability, or timescales. This includes inflationary cost pressures; insufficient market capacity, contractor availability and contractor capacity; insufficient availability of materials and/or labour; delayed lead-in times for materials or services; rising prices for services, materials, and equipment.</li> <li>• Insufficient internal staffing resource, hindering effective and timely delivery.</li> </ul>		
<p><b>Result</b></p>	<ul style="list-style-type: none"> <li>• Increased business failure</li> <li>• Reputational Damage especially on projects declared already in the public domain.</li> <li>• Increased unemployment</li> <li>• Financial and reputational risks to the Council</li> <li>• Impact on communities.</li> <li>• Loss of reputation</li> <li>• Impact of wider economic change on residents, particularly the most vulnerable</li> </ul>		
<p><b>Current treatment and controls</b></p>	<ul style="list-style-type: none"> <li>• Growth Program and associated Governance and project controls.</li> <li>• Bid process and expertise applied to all existing and new funding opportunities.</li> <li>• Members approval and prioritization of existing and new projects.</li> <li>• Constant and consistent evaluation and use of Growth Budget.</li> <li>• Opportunities in respect to Capital receipts from asset disposal.</li> </ul>		
<p><b>Risk owner</b></p>	<p>ED Place and Assistant Director of Place (Economic Growth and Housing)</p>		
<p><b>Proposed actions</b></p>	<ul style="list-style-type: none"> <li>• Immediate review of the Government White Paper on Levelling Up to ensure timely advantage taken of any funding opportunity.</li> <li>• Actively pursue all additional funding available in timely and at the earliest opportunity.</li> <li>• Create and make available Bid Team focused on and challenged with successful bids.</li> <li>• Establish Project Review forums and reporting mechanisms for early visibility of reporting of project progress and any emerging issues - on a project-specific and programme-wide basis.</li> <li>• Proactive external engagement with construction sector and key partners (e.g., LCR CA) to ensure visibility and understanding of risks to the sector and potential mitigants.</li> <li>• Develop and implement procurement strategy to ensure sustained competition, robustness of process and suitable partners for project delivery – currently being actioned.</li> <li>• Further refine and strengthen capital project planning, delivery, and governance measures</li> </ul>		



# Agenda Item 7

<b>Report to:</b>	Audit and Governance Committee  Council	<b>Date of Meeting:</b>	Wednesday 13 December 2023  Thursday 18 January 2024
<b>Subject:</b>	Financial Procedure Rules		
<b>Report of:</b>	Executive Director of Corporate Resources and Customer Services	<b>Wards Affected:</b>	(All Wards);
<b>Portfolio:</b>	Cabinet Member - Regulatory, Compliance and Corporate Services		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

## Summary:

This report seeks approval for revisions to the Financial Procedure Rules.

## Recommendation(s):

(1) That the Audit and Governance Committee:

- (a) Consider and approve the revision to the Financial Procedure Rules set out in Appendix 1 to this report.
- (b) Refer the duly amended Financial Procedure Rules to Council for approval.

(2) That Council approve the amended Financial Procedure Rules as set out in Appendix 1 to this report

## Reasons for the Recommendation(s):

To enable the Council to adopt the recommended revisions to Financial Procedure Rules.

## Alternative Options Considered and Rejected: (including any Risk Implications)

As part of the annual review of the Council's Constitution, the Council's Financial Procedure Rules (FPR) have been the subject of review. This has resulted in a number of proposed revisions, which are now presented for consideration by Audit & Governance Committee and referral to Council for their consideration and approval.

# Agenda Item 7

No alternative options have been considered as the review of the Financial Procedure Rules is a requirement of the Constitution.

## What will it cost and how will it be financed?

### (A) Revenue Costs

There are no additional revenue costs arising directly from this report.

### (B) Capital Costs

There are no additional capital costs arising directly from this report.

## Implications of the Proposals:

### Resource Implications (Financial, IT, Staffing and Assets):

There are no additional resource implications associated with this report. Existing staffing resources will be involved in financial management and will be required to comply with the FPRs.

### Legal Implications:

Production of this report has been considered in line with Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989 and the Local Government Act 2003 together with other relevant legislation as detailed within the Financial Procedure Rules.

### Equality Implications:

There are no equality implications.

### Impact on Children and Young People: No

### Climate Emergency Implications:

The recommendations within this report will

Have a positive impact	No
Have a neutral impact	Yes
Have a negative impact	No
The Author has undertaken the Climate Emergency training for report authors	Yes



## **Contribution to the Council's Core Purpose:**

Effective management of the Council's financial affairs supports each theme of the Council's Core Purpose.

Protect the most vulnerable:
Facilitate confident and resilient communities:
Commission, broker and provide core services:
Place – leadership and influencer:
Drivers of change and reform:
Facilitate sustainable economic prosperity:
Greater income for social investment:
Cleaner Greener

## **What consultations have taken place on the proposals and when?**

### **(A) Internal Consultations**

The review of the Financial Procedure Rules has been led by the Finance Service and has involved consultation with officers from financial management, internal audit and senior officers within the Council. The final document as included within this report has also been the subject of review and initial approval by the Council's Monitoring Officer, prior to presentation to Members.

The Executive Director of Corporate Resources and Customer Services (FD 7433/233) and the Chief Legal and Democratic Officer (LD 5533/23) have been consulted and any comments have been incorporated into the report.

### **(B) External Consultations**

Not Applicable

## **Implementation Date for the Decision**

Immediately following the Committee / Council meeting.

# Agenda Item 7

<b>Contact Officer:</b>	Andrew Bridson
Telephone Number:	0781 354 3320
Email Address:	andrew.bridson@sefton.gov.uk

## **Appendices:**

The following appendices are attached to this report:

Appendix 1 – Revised Financial Procedure Rules

## **Background Papers:**

There are no background papers available for inspection.

### **1. Financial Procedure Rules**

- 1.1 As part of the annual review of the Council's Constitution, the Council's Financial Procedure Rules have been the subject of review.
- 1.2 This review has included officers from the Finance Service, Internal Audit and Senior Officers within the Council. The final document as included within this report has also been the subject of review and initial approval by the Council's Monitoring Officer, prior to presentation to members.
- 1.3 As would be expected, large elements of the previous version of the Financial Procedure Rules remain as previously approved, however certain changes are proposed and are discussed below. These changes align with the Council's structure and the aims of the Financial Procedure Rules such that:
  - They provide the framework for managing the financial affairs of the Council;
  - They define the roles and responsibilities of members and officers;
  - They facilitate the effective operation of Council activity; and
  - They provide a framework for the delivery of an effective internal control environment.
- 1.4 Having reviewed the Financial Procedure Rules there are a number of key areas that are reflected in the updated schedule and the changes have been summarised within the following paragraphs.
- 1.5 Other minor changes have been made to the format and content of the Financial Procedure Rules to enhance user accessibility including additional section definitions and amendments to paragraph references.

## Commercial Activity (paragraph C.38 to C.40)

- 1.6 This section has been updated to clarify the management and reporting arrangements for wholly owned Council companies which will reflect best practice guidance within the sector.
- 1.7 This is an area in local government that is continually updated to reflect developments in the sector and to take on learning to ensure governance and management of such companies complies with best practice. As such Cabinet as the Council's executive and shareholder will be informed of this best practice guidance and any subsequent changes or developments in order that they can execute their role as shareholder effectively. Overview and Scrutiny management board will also receive this report. This will ensure that there is a fully transparent and up to date approach to governance and management within the Council.
- 1.8 Any loan arrangements between the Council and the companies will be in accordance with the requirement of the Financial Procedure Rules.
- 1.9 Any material variations to approved business plans will be escalated to Cabinet as shareholder at the earliest opportunity in accordance with the agreements between the Council and the Company.

## Loans to Third Parties and Acquisition of Third Party Interests (paragraph D.63)

- 1.10 Further to the changes to the Commercial Activity section of the FPRs as highlighted above, this section has been updated to state that for wholly owned Council companies, Cabinet as the Executive of the Council and the shareholder in wholly owned Council companies, make decisions in respect of approving business plans including any loan provision.

## Collection of Income (paragraph E.21)

- 1.11 This section of the FPRs has been updated to include the approval requirements for when a third party wishes to exit a Council income generating contract early.
- 1.12 Where these proposals are within the approved budget policy framework and have:
  - No detriment financially and reflects current income being received
  - That the annual sums are received at the same level and the timeline at least as what is being received under the contract; and
  - Any lump sum at the end of the contact period is based on current income levels and the timing is at least as currently set out within the existing agreement
- 1.13 Then this can be approved by the relevant Cabinet Member and the Cabinet Member - Regulatory, Compliance and Corporate Services and reported in line with the Council's established monitoring process. Any lump sums will be reserved and used to support the budget as originally set out.

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- 1.14 Where third parties wish to exit income generating contracts early and these cannot be contained within the existing budget policy framework, then these should be approved in line with the requirements for Supplementary Revenue Estimates as set out within the Financial Procedure Rules.



Sefton Metropolitan Borough Council

# Constitution

DECEMBER 2023

## CHAPTER 10 – FINANCIAL PROCEDURE RULES

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## SECTION A - INTRODUCTION TO THE FINANCIAL PROCEDURE RULES

- A.1 The Financial and Contract Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and anyone acting on its behalf, including School Governors operating under local delegation arrangements. All decision makers need to ensure that they are not only empowered under the Constitution to make every decision that they propose to make, but that they are also authorised under these Rules to incur the financial consequences of every decision that they make.
- A.2 The Rules identify the financial responsibilities of the full Council, Cabinet, Overview and Scrutiny Members, statutory officers and the Executive Directors and Assistant Directors. A written record shall be kept of all decisions taken under these Rules which are taken using delegated powers.
- A.3 All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is warranted, properly authorised, provides value for money and achieves best value and is in the interest of the Council's citizens.
- A.4 The Section 151 Officer is responsible for maintaining a regular review of the Financial Procedure Rules and submitting any additions or changes necessary to the full Council for approval. The Assistant Director Corporate Resources and Customer Services (Strategic Support) is responsible for maintaining a regular review of the Contract Procedure Rules and submitting any additions or changes necessary to the full Council for approval. The Section 151 Officer is also responsible for reporting, where appropriate, breaches of the Financial and Contract Procedure Rules to Audit and Governance Committee.
- A.5 Executive Directors and Assistant Directors are responsible for ensuring that all staff in their Services are aware of the existence and content of the Council's Financial and Contract Procedure Rules and other internal regulatory documents and that they comply with them, as required by the Council's Code of Conduct for Employees and this Constitution. Failure to comply with the Code of Conduct will be dealt with in accordance with the Council's Disciplinary Policy and Procedure. These documents will be located on the Sefton intranet for reference. Where staff do not have access to the intranet, Executive Directors and Assistant Directors must ensure that an adequate number of copies of the relevant policies are available for reference within their Services.
- A.6 The Section 151 Officer, is responsible for issuing advice and guidance to underpin the Financial and Contract Procedure Rules that Members,

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officers and others acting on behalf of the Council are required to follow.

- A.7 The Rules are not intended to cover every eventuality, but the spirit of the Rules must always be followed. Where there is any uncertainty in matters of interpretation, advice should be sought from the Section 151 Officer before decisions or actions are taken.

## SECTION B - FINANCIAL MANAGEMENT

### WHY THIS IS IMPORTANT

B.1 Financial Management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget. Members and Officers have a responsibility to abide by the highest standards of probity in dealing with financial issues, understanding their respective roles and responsibilities and other key financial accountabilities regarding financial management.

### WHAT IS COVERED IN THIS SECTION

B.2 The roles and responsibilities of:

- The full Council
- The Cabinet
- The committees delegated by Cabinet
- Statutory officers; and
- Executive Directors and Assistant Directors

B.3 Other financial accountabilities:

- Virement
- Supplementary estimates
- Section 106
- Treatment of year end balances
- Accounting policies
- Accounting records and returns
- The Annual Statement of Accounts

### THE FULL COUNCIL

B.4 The responsibilities of the full Council are set out in Chapter 4 of the Constitution. In respect of financial matters, this includes approving the Budget within which the Cabinet operates.

B.5 The Budget comprises the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base and Council Tax rate, and decisions relating to the control of the Council's borrowing requirement, and the allocation and control of capital expenditure.

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## THE CABINET

- B.6 The Cabinet's responsibilities, in respect of financial matters include:
- a. developing and reviewing the Council's plans and policies
  - b. advising on budget setting
  - c. ensuring proper arrangements exist for the effective and efficient management of the Council's executive affairs
  - d. monitoring and auditing the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being met and any appropriate remedial action; and
  - e. ensuring officers exercising delegated powers on behalf of the Cabinet discharge their responsibilities efficiently and effectively.

## CABINET MEMBERS

- B.7 Individual Cabinet Members have specific decision-making powers which are set out in Chapter 5 of the Council's Constitution. Cabinet Members responsibilities in respect of financial matters include:
- a. the proper administration of the Council's services
  - b. ensuring adequate staffing, premises and other resources are in place to secure agreed standard and target outcomes within the scope of their portfolio
  - c. ensuring budget control and financial monitoring within the scope of their portfolio
  - d. making recommendations to the Cabinet in respect of strategic policy concerning matters within their portfolio.
- B.8 Cabinet Members must consult with relevant officers before exercising their delegated decision-making powers. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision and that they have authority to incur the financial consequences of that decision.

## COMMITTEES

### OVERVIEW AND SCRUTINY COMMITTEES

- B.9 Overview and Scrutiny Committees are responsible for discharging the Council's functions under Section 9F to 9FU of the Local Government Act 2000, including:
- a. scrutinising Cabinet decisions before or after they have been implemented; and
  - b. establishing task and finish reviews as they see fit.

## AUDIT AND GOVERNANCE COMMITTEE

- B.10 The Audit and Governance Committee has right of access to all of the information necessary to effectively discharge its responsibilities and can consult directly with internal and external auditors.
- B.11 The committee responsibilities are detailed in Chapter 7 of the Constitution.

## STATUTORY OFFICERS

### CHIEF OFFICERS

- B.12 Chief Officers are the Chief Executive, Executive Directors or any Assistant Directors to whom there has been specific delegation in writing by the Council or the Chief Executive.
- B.13 In accordance with the management structure of the Council, Chief Officers will be referred to as follows:
  - a. Chief Executive (Head of Paid Service)
  - b. Executive Directors
  - c. Assistant Directors
- B.14 The Chief Executive is the Head of the Council's Paid Service. The responsibilities of the Chief Executive include:
  - a. leading and directing the strategic management of the Council
  - b. ensuring the effective pursuit and achievement of the Council's objectives
  - c. ensuring the Council's activities are carried out with maximum effectiveness and efficiency.
- B.15 The Chief Executive must report to and provide information for full Council, the Cabinet, the Overview and Scrutiny Committees and other committees.

### MONITORING OFFICER

- B.16 The Council's Monitoring Officer pursuant to Section 5 and 5A of the Local Government and Housing Act 1989 (as amended) is responsible for exercising the functions of that role. This includes reporting, in consultation with the Chief Executive and Section 151 Officer to the full Council (or to the Executive in relation to an Executive function), if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to a finding of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been

considered by Cabinet.

- B.17 The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. They must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by officers who have delegated responsibility.
- B.18 The Monitoring Officer is responsible for advising all Members and officers about who has authority to take a particular decision.
- B.19 The Monitoring Officer is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the Policy Framework.
- B.20 The Monitoring Officer (together with the Section 151 Officer) is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
  - a. initiating a new policy which may have financial implications that cannot be contained within existing budgets
  - b. committing expenditure in future years that exceeds Medium Term Financial Plan assumptions
  - c. agreeing budget transfers that exceed approved virement limits
  - d. causing the total expenditure financed from Council tax, grants and corporately held reserves to increase, or to increase by more than a significant amount ("Significant" to be defined by the Section 151 Officer or their representative).
- B.21 The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

## RESPONSIBLE FINANCIAL OFFICER (SECTION 151 OFFICER)

- B.22 The Section 151 Officer is the financial adviser to the Council, the Cabinet and officers and is the Council's 'responsible financial officer' under the Accounts and Audit Regulations. They are responsible for the proper administration of the Council's affairs as specified in, and undertaking the duties required by, Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003 and all other relevant legislation.
- B.23 The Section 151 Officer is responsible generally, for discharging, on behalf of the Council, the responsibilities set out in the Chartered Institute of Public Finance and Accountancy (CIPFA) Statement on the Role of the Chief Financial Officer in Local Government, including:

- a. in conjunction with the Executive Directors and Assistant Directors, the proper administration of the Council's financial affairs
  - b. setting and monitoring compliance with financial management standards
  - c. advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
  - d. providing financial information
  - e. preparing the revenue budget and capital programme
  - f. treasury management.
- B.24 Section 114 of the Local Government Finance Act 1988 includes a requirement for the Section 151 Officer to report to the full Council, Cabinet and external auditor if the Council or one of its officers:
- a. has made, or is about to make, a decision which involves incurring unlawful expenditure
  - b. has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
  - c. is about to make an unlawful entry in the Council's accounts
- B.25 Section 114 of the 1988 Act also requires:
- a. the Section 151 Officer to nominate a properly qualified Member of staff to deputise should they be unable to perform the duties under section 114 personally. The designated deputy for this purpose is the Service Manager (Finance).
  - b. the Authority to provide the Section 151 Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114 of the Local Government Finance Act 1988.

## MONEY LAUNDERING REPORTING OFFICER

- B.26 The Section 151 Officer is appointed as the Council's Money Laundering Reporting Officer and will maintain and advise on Anti-Money Laundering procedures.
- B.27 They will be responsible for notifying the National Crime Agency (NCA) of any suspected cases of money laundering committed within the accounts of the Council as soon as possible and fulfil other duties as defined by legislation or regulation related to the post. Simultaneously, the Cabinet Member for Regulatory Compliance and Corporate Services will be kept informed of any notifications to NCA and of any issues arising from them.

## EXECUTIVE LEADERSHIP TEAM AND STRATEGIC LEADERSHIP BOARD

- B.28 The officer management arrangements for the Council are overseen by an Executive Leadership Team comprising the Chief Executive and Executive Directors including the Section 151 Officer. Each member of the Executive Leadership Team is accountable to the Chief Executive for ensuring that Council Services are managed in accordance with the objectives, plans, policies, programmes, budgets and processes of the Council.
- B.29 The Strategic Leadership Board includes the Executive Leadership Team and all of the Executive Directors and Assistant Directors. The Strategic Leadership Board is responsible for ensuring that the Council's Services are managed in accordance with the Council's strategic objectives and within the agreed policy and budget framework.

## EXECUTIVE DIRECTORS AND ASSISTANT DIRECTORS

- B.30 Powers are delegated to Executive Directors and Assistant Directors, who will establish, operate and keep under review Schemes of Financial Delegation, to cascade powers and responsibilities to Service Managers and other subordinate officers. Every such sub-delegation will be recorded in writing within a Scheme of Financial Delegation. The sub-delegation of functions shall not in any way diminish the overall responsibility and accountability of the delegator. Executive Directors, Assistant Directors and their managers should provide leadership, act with integrity, be open and transparent as possible, regarding financial performance and risks.
- B.31 Executive Directors and Assistant Directors are responsible for and accountable for the financial management arrangements within their service area. They shall manage the development of budget policy options with a detailed assessment of financial implications within the budget process and resource framework agreed by the Council.
- B.32 Executive Directors and Assistant Directors will establish, operate and annually review Schemes of Financial Delegation, in consultation with the Section 151 Officer, to ensure that:
- a. the day to day financial management of services within their directorate is carried out in a secure, efficient and effective manner, and in accordance with the Financial Procedure Rules and associated relevant guidance.
  - b. expenditure is contained within the service's overall approved budget and that individual budget heads are not overspent, by



monitoring the budget and taking appropriate and timely corrective action where significant variances are forecast and if necessary, seeking specific in year approval for the transfer of resources between budgets.

- c. regular reports in an approved format are made to Cabinet on projected expenditure against budget and performance against service outcome targets.
- d. prior approval is sought at the appropriate level for new proposals that create financial commitments in future years, change existing policies, initiate new policies or materially extend or reduce the Council's services.
- e. resources are only used for the purposes for which they were intended.
- f. compliance with the scheme of virement (as set out in the following section "MANAGING EXPENDITURE: SCHEME OF VIREMENT").
- g. risks are appropriately assessed, reviewed and managed.
- h. all members of staff are fully trained, aware of and comply with the requirements of Financial Procedure Rules, including the Contract Procedure Rules.
- i. all allegations of suspected fraud, corruption and financial irregularity are promptly reported to the Section 151 Officer and Chief Internal Auditor and that any local investigations are undertaken thoroughly, consistently and impartially.

**B.33** Schemes of Financial Delegation will set out all financial responsibilities and approval limits as delegated by the Executive Directors and Assistant Directors to Service Managers, and any sub-delegations within services. Authorised Officers are those officers given specific delegated authority by their Executive Directors and Assistant Director as documented in that service's Scheme of Financial Delegation. The financial limits specified in the Scheme of Financial Delegation will be used to control access to financial systems and on-line transaction approvals. The Section 151 Officer will provide advice and prescribed format to Executive Directors and Assistant Directors to facilitate the completion of the Schemes of Financial Delegation. The Section 151 Officer to review and approve all Schemes of Financial Delegation on an annual basis.

## MANAGING EXPENDITURE

### SCHEME OF VIREMENT

- B.34** A virement constitutes the movement of existing approved budgets from one area to another and is not an increase in overall budgets through the addition of new monies.
- B.35** The Scheme of Virement is intended to enable the Cabinet, Executive Leadership Team and Strategic Leadership Board and their staff to

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manage budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources.

- B.36 The full Council is responsible for agreeing limits for virement of expenditure between budget headings.
- B.37 Executive Directors and Assistant Directors are responsible for agreeing in-year virements within delegated limits; in consultation with the Section 151 Officer where required and ensuring that written records of any changes are maintained.
- B.38 Key controls for the scheme of virement are:
- a. it is administered by the Section 151 Officer within guidelines set by the full Council. Any departure from this scheme requires the approval of the full Council.
  - b. the overall budget is agreed by the Cabinet and approved by the full Council. Executive Directors, Assistant Directors and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. Income received cannot be used to defray expenditure.
  - c. for the purposes of this scheme, a budget head is considered to be a division of service as identified in the approved Budget Report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis
  - d. virement does not create additional overall budget liability
  - e. no virements are permitted from ring fenced budgets
- B.39 Some revenue virements are essentially of an administrative nature, for example, implementation of restructuring and reorganisation proposals that have already received the appropriate level of officer and Member approval; routine changes to the structure of the chart of accounts or changes to notional accounting budgets which are required for reporting purposes but which do not impact on the Councils cash expenditure. Where the virement is of an administrative nature, Member approval is not required and approval limits will be based on the Scheme of Financial Delegation. Administrative virements that exceed these limits will be approved by the Section 151 Officer.
- B.40 Executive Directors and Assistant Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Executive Directors and Assistant Directors must plan to fund such commitments from within their own budgets.

- B.41 Where transfers are a single transaction they must be affected as such and must not be undertaken as two or more smaller transactions.  
Approval limits for virements are as follows:

## REVENUE AND CAPITAL VIREMENTS

### VIREMENT WITHIN A PORTFOLIO

Virement Amount (within portfolio)	Approval Level
Up to and including £100,000	The relevant Executive Director or Assistant Director
In excess of £100,000 up to and £250,000	The relevant Executive Director or Assistant Director in consultation with the Cabinet Member and the Section 151 Officer
In excess of £250,000 up to and including £1,000,000	The relevant Cabinet Member in consultation with Cabinet Member for Regulatory, Compliance and Corporate Service (or the Leader of the Council if the matter concerns the Cabinet Member Regulatory, Compliance and Corporate Services)
Over £1,000,000 (where virement is within budget framework)	Cabinet
Over £1,000,000 (where virement is outside budget framework)	Council

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## VIREMENT BETWEEN PORTFOLIOS

Virement Amount (between portfolios)	Approval Level
Up to and including £250,000	The relevant Executive Director or Assistant Director in consultation with the Cabinet Members and the Section 151 Officer
In excess of £250,000 up to and including £1,000,000	The relevant Cabinet Members in consultation with Cabinet Member for Regulatory, Compliance and Corporate Service (or the Leader of the Council if the matter concerns the Cabinet Member Regulatory, Compliance and Corporate Services Portfolio).
Over £1,000,000 (where virement is within budget framework)	Cabinet

## SUPPLEMENTARY REVENUE ESTIMATES

- B.42 Where services wish to undertake an activity not originally identified in the budget or incur additional revenue expenditure on an existing activity where this is fully funded (for example through additional specific grant allocations), approval must be sought for a supplementary revenue estimate in accordance with the following table. The Section 151 Officer must be consulted to establish that any additional grant funding identified can be legitimately linked to the expenditure in question and the net impact of the proposal must be neutral on the Councils overall budget.
- B.43 Approval limits for fully funded supplementary revenue estimates are as follows:

Supplementary Estimate Amount	Approval Level
Up to and including £100,000	The relevant Executive Director or Assistant Director
In excess of £100,000 up to and including £250,000	The relevant Executive Director or Assistant Director in consultation with the Cabinet Member and the Section 151 Officer
In excess of £250,000 up to and including £500,000	The relevant Cabinet Member in consultation with Cabinet Member for Regulatory, Compliance and Corporate Service (or the Leader of the Council if the matter concerns the Cabinet Member Regulatory, Compliance and Corporate Services) and the Section 151 Officer
In excess of £500,000 up to and including £1,000,000	Cabinet
Over £1,000,000	Council

B.44 During the financial year, all earmarked reserves and contingencies will be reviewed at least once. In the event that funding can be released the approval limits for the utilisation of this funding for either a supplementary revenue or capital estimate are as follows:

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Supplementary Estimate Amount	Approval Level	
	From Earmarked Reserves	From Contingencies
Up to and including £250,000	Section 151 Officer	Section 151 Officer
In excess of £250,000 up to and including £500,000	Section 151 Officer in consultation with the Chief Executive	Section 151 Officer in consultation with the Chief Executive
In excess of £500,000 up to and including £1,000,000	Cabinet	Section 151 Officer in consultation with the Cabinet Member for Regulatory Compliance and Corporate Services
Over £1,000,000	Council with recommendation from Cabinet	Cabinet

B.45 Supplementary revenue estimates which are to be funded wholly or in part from general reserves or general purpose funding (i.e. Council Tax or non-ring fenced grant) must be approved by Council regardless of value.

## SUPPLEMENTARY CAPITAL ESTIMATES

B.46 Council approves the inclusion of capital block grant allocations within the capital programme. The respective Cabinet Members in conjunction with the Council's Section 151 Officer have delegated authority to allocate capital grants to capital projects to be included within the capital programme up to a level of £1m per individual scheme. Schemes above this threshold will require approval by Council.



- B.47 Supplementary capital estimates which are fully funded from external resources (e.g. specific grant; developer’s contributions) must be approved in accordance with following table.
- B.48 Capital budget increases funded wholly or in part from additional Council resources such as capital reserves, borrowing and capital receipts, regardless of value, must be approved by Council. Council approval is also required where there are significant revenue implications for future year’s budgets.
- B.49 Approval limits for supplementary capital estimates are as follows:

Supplementary Estimate Amount	Approval Level
Up to and including £100,000	Section 151 Officer in consultation with the Chief Executive
In excess of £100,000 up to and including £250,000	Section 151 Officer in consultation with Cabinet Member for Regulatory Compliance and Corporate Services
In excess of £250,000 up to and £1,000,000	Cabinet
Over £1,000,000	Council with recommendation from  Cabinet

SECTION 106

- B.50 Full delegation with respect of the allocation of Neighbourhoods Section 106 balances is given to the Assistant Director of People (Communities).

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- B.51 The Assistant Director of People (Communities) will ensure that any expenditure commitments are in accordance with each individual agreement and the associated legislative requirements. The Assistant Director of People (Communities) will make arrangements for adequate records to be kept to meet the reporting requirements of the Annual Infrastructure Funding Statement.
- B.52 Approval limits will be set by the Assistant Director of People (Communities) and agreed with the Section 151 Officer and will be recorded within the Schemes of Financial Delegation for the service area.
- B.53 Reporting will be in accordance with the Council's normal and established monthly monitoring process.

## TREATMENT OF YEAR END BALANCES

- B.54 The full Council is responsible for agreeing procedures for carrying forward under- and overspendings on budget headings.
- B.55 A budget heading is considered to be a division of service as identified in the approved Budget Report, or, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis.
- B.56 Any revenue underspending at the year-end may be carried forward, subject to the agreement of the Cabinet. The Section 151 Officer will identify and make recommendations about the carry forward of underspends to Cabinet as part of the budget monitoring reporting process. All carry forward proposals must be supported by an appropriate business case demonstrating that the underspend was planned and that the resources carried forward will be earmarked for a specific and appropriate purpose. Executive Directors and Assistant Directors should include provisional indications of likely carry forward requests as part of their in year budget and performance monitoring. Before approval is sought for a carry forward, Executive Directors and Assistant Directors should ensure that there are no unfunded overspends within their service. It is extremely unlikely that proposed carry forwards will be approved if there are unfunded overspends elsewhere within the service.
- B.57 Capital block provisions are allocations within which the full cost value of approved schemes must be contained. Any uncommitted sum at the year-end may be carried forward subject to consideration by Cabinet. Any uncommitted sum which is not justified on this basis will be returned to Council balances. Equally, any overspending will be carried forward as the first call on the following year's provision.

## ACCOUNTING POLICIES

- B.58 The Section 151 Officer is responsible for selecting appropriate accounting policies; exercising oversight of financial and accounting records and systems; and preparing and publishing reports containing statements on the overall finances of the Council including the annual statement of accounts.
- B.59 The key controls for accounting policies are:
- a. systems of internal control are in place to ensure that financial transactions are lawful
  - b. suitable accounting policies are selected and applied consistently
  - c. accurate and complete accounting records are maintained
  - d. financial statements are prepared which present fairly the financial position of the Council and its expenditure and income
- B.60 The Section 151 Officer is responsible for:
- a. selecting suitable accounting policies and ensuring that they are applied consistently
  - b. exercising supervision over financial and accounting records and systems
  - c. preparing and publishing reports containing the statements on the overall finances of the Council including the Council's Annual Report and Accounts
- B.61 Executive Directors and Assistant Directors are responsible for ensuring that all staff within their directorates receive any relevant financial training which has been approved by the Section 151 Officer, and that they are aware of and adhere to the accounting policies, procedures and guidelines set by down by the Section 151 Officer.

## ACCOUNTING RECORDS AND RETURNS

- B.62 The Section 151 Officer is responsible for determining and approving the accounting procedures and records for the Council.
- B.63 All accounts and accounting records will be compiled by the Section 151 Officer or under his/her direction. The form and content of records maintained in other directorates will be approved by the Section 151 Officer.
- B.64 The key controls for accounting policies are:
- a. calculation, checking and recording of sums due to or from the Council will be separated as completely as possible from their collection or payment

- b. officers responsible for examining and checking cash transaction accounts will not process any of these transactions themselves
- c. reconciliation procedures are carried out to ensure transactions are correctly recorded
- d. procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- e. prime documents are retained in accordance with legislative and other requirements.

## THE ANNUAL STATEMENT OF ACCOUNTS

- B.65 The Section 151 Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Council Accounting in the United Kingdom (CIPFA/LASAAC) and signing them in accordance with the Accounts and Audit Regulation 2015. Approval of the statutory accounts has been delegated by Council to the Audit and Governance Committee.

## SECTION C - FINANCIAL PLANNING

### WHY THIS IS IMPORTANT

- C.1 Financial planning is the development of effective systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. Preparing a policy framework, comprehensive budgets and robust business and performance plans are the key elements to achieving this. By regular monitoring, the Council can ensure that legal requirements and other relevant government guidelines are met and that variances and spending pressures are identified and dealt with promptly.
- C.2 The full Council is responsible for agreeing the Council's Budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- a. the Medium Term Financial Plan – sets out:
    - what the Council wants to achieve in the short and medium term
    - how services will change in the light of priorities, performance, resources, workforce planning needs and consideration of risks
    - investment required to deliver change
    - how much services will cost in overall terms and to service users
  - b. the Budget – this is the financial expression of the Council's Business Plan. It sets out the allocation of resources to services and projects, the level of contingency funding, the Council Tax base and Council Tax rate, borrowing limits and capital financing requirements.
  - c. the Capital Programme – Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
  - d. the Capital Strategy and Treasury Management Strategy – which sets out the arrangements for the management of the Council's borrowing, lending, cash flows and investments
  - e. specific Strategies which have a financial implication

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## WHAT IS COVERED IN THIS SECTION

- C.3 The following aspects of Financial Planning are covered in this section:
- Policy Framework
  - Budget Plan
  - Revenue Budget Monitoring and Control of Revenue Expenditure
  - Monitoring and Control
  - Contingent Liabilities
  - Determination, Monitoring and Control of Affordable Borrowing
  - Resource Allocation
  - Capital Expenditure
  - Capital Monitoring, Approvals and Amendments to the Capital Programme
  - Capital Receipts
  - Leasing and Rental Agreements
  - Commercial Activity
  - Maintenance of Reserves
  - Reporting

## POLICY FRAMEWORK

- C.4 The full Council is required by law, to agree a Policy Framework. The Policy Framework is comprised of the plans and strategies as set out in Chapter 4 of the Constitution.
- C.5 The full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework.
- C.6 The full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the Policy Framework within the financial limits set by the Council.

## BUDGET PLAN

- C.7 Each year the Section 151 Officer is responsible for preparing a budget plan for the Council including an approved revenue budget, capital programme, treasury management strategy (new capital strategy) and reserves strategy detailing the financial and service scenario and the policy and expenditure changes required to respond to this scenario.
- C.8 Executive Directors and Assistant Directors will support this process by assessing and advising on the service scenario and policy and



expenditure options for revenue and capital, in their area of responsibility, in a form determined by the Section 151 Officer.

- C.9 The Cabinet, advised by the Section 151 Officer, Executive Directors and Assistant Directors, will develop a budget package including financing options, policy and expenditure options and capital programme. This will be subject to scrutiny by the Overview and Scrutiny Committee before the Cabinet finalises its recommendations to Council. The final Budget policy and Council Tax will be determined by Council.

## REVENUE BUDGET MONITORING AND CONTROL REVENUE EXPENDITURE

- C.10 Revenue expenditure is broadly defined as any expenditure incurred on the day to day running of the Council. Examples of revenue expenditure include salaries, energy costs, and consumable supplies and materials.

## MONITORING AND CONTROL

- C.11 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. They must monitor and control expenditure against budget allocations at a corporate level and report to the Cabinet on the overall position on a regular basis.
- C.12 It is the responsibility of Executive Directors and Assistant Directors to control income and expenditure within their area and to monitor performance, taking account of financial information and guidance provided by the Section 151 Officer. They must report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer to any potential overspending or under-achievement of income budgets in a timely manner.
- C.13 The Section 151 Officer is responsible for the following:
- a. Establishing an appropriate framework of budgetary management and control which ensures that:
    - budget management is exercised within annual budget allocations unless the full Council agrees otherwise
    - timely information on receipts and payments is made available, which is sufficiently detailed to enable officers to fulfil their budgetary responsibilities

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- expenditure is committed only against an approved budget head
  - all officers responsible for committing expenditure comply with relevant guidance, and the Financial and Contract Procedure Rules
  - each cost centre has a single named manager, determined by the relevant Executive Director and Assistant Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
  - significant variances from approved budgets are investigated and reported by budget managers regularly
- b. Administering the Council's scheme of virement
  - c. Submitting reports to the Cabinet and to the full Council, in consultation with the relevant Executive Director or Assistant Director, where they are unable to balance expenditure and resources within existing approved budgets under their control
  - d. Preparing and submitting reports on the Council's projected income and expenditure compared with the budget on a regular basis.

C.14 Executive Directors and Assistant Directors are responsible for the following:

- a. Maintaining budgetary control within their Services and ensuring that all income and expenditure is properly recorded and accounted for
- b. Ensuring that an accountable budget manager is identified for each item of income and expenditure under their control. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- c. Ensuring that spending remains within the service's overall approved budget, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate and timely corrective action where significant variations from the approved budget are forecast.
- d. Ensuring that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively
- e. Preparing and submitting to the Cabinet regular reports on the service's projected expenditure compared with its budget, in consultation with the Section 151 Officer
- f. Ensuring prior approval by the full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
  - create financial commitments in future years
  - change existing policies, initiate new policies or cease existing policies or materially extend or reduce the Council's services.
- g. Ensuring compliance with the scheme of virement
- h. Agreeing with the appropriate Executive Director or Assistant Director any budget proposal, (including a virement proposal) which impacts their respective service areas, after having

consulted with the Section 151 Officer and the Cabinet Member Regulatory and Compliance and Corporate Resources

- i. Ensuring Schemes of Financial Delegation are maintained for all within their area of responsibility
- j. Ensuring best value is obtained.

## CONTINGENT LIABILITIES

C.15 Contingent liabilities are possible obligations whose existence will be confirmed by uncertain future events which are not wholly within the control of the Council.

C.16 The S151 Officer is responsible for:

- a. reviewing at least annually in consultation with Executive Directors and Assistant Directors the existing contingent liabilities and ensuring that a balance sheet provision is made where necessary, in accordance with CIPFA guidance.
- b. taking steps wherever possible, in consultation with the Chief Executive, Executive Directors and Assistant Directors, to minimise the risk of contingent liabilities.

C.17 The Chief Executive, Executive Directors and Assistant Directors are responsible for:

- a. setting up procedures and processes to minimise the risk of creating contingent liabilities
- b. reviewing at least annually their service areas for contingent liabilities
- c. informing the Section 151 Officer of any new contingent liabilities and of any changes in the circumstances of existing contingent liabilities.

C.18 These regulations may be modified by any Delegation Scheme which the Council may approve from time to time.

## DETERMINATION, MONITORING AND CONTROL OF AFFORDABLE BORROWING

C.19 Under the Local Government Act 2003 the Council is required by regulation to comply with the CIPFA Prudential Code for Capital Finance in Local Authorities. The key objectives of the Prudential Code are to ensure that within a clear framework, the capital investment plans

of local authorities are affordable, prudent and sustainable. A further objective is to ensure that treasury management supports prudence, affordability and sustainability. The Code explicitly states that authorities must not borrow to invest primarily for a financial return.

C.20 The Council is responsible for approving prior to the commencement of the financial year the prudential indicators for the forthcoming financial year and subsequent financial years as required by the Code. The indicators required as a minimum are:

- a. Estimates of capital expenditure
- b. Estimate of capital financing requirement (underlying need to borrow for a capital purpose)
- c. Authorised limit for external debt
- d. Operational boundary for external debt
- e. Estimate of gross debt to CFR
- f. Estimated Liability benchmark
- g. Estimates of the ratio of financing costs to net revenue stream
- h. Estimate of net income from commercial and service investments to net revenue stream

After the year end actual values are to be calculated for:

- a. Capital expenditure
- b. Capital financing requirement
- c. External debt
- d. Liability benchmark
- e. Ratio of financing costs to net revenue stream
- f. Ratio of net income from commercial and service investments to net revenue stream

C.21 The Section 151 Officer is responsible for:

- a. establishing procedures to both monitor performance against all forward looking prudential indicators and for ensuring that net external borrowing does not exceed the capital financing requirement.
- b. reporting to Council any significant deviations from expectations.
- c. ensuring that regular monitoring is undertaken in year against the key measures of affordability and sustainability, by reviewing estimates of financing costs to revenue and the capital financing requirement.
- d. reporting to Council, setting out management action, where there is significant variation in the estimates used to calculate these prudential indicators, for example caused by major overruns of expenditure on projects or not achieving in-year capital receipts.

## RESOURCE ALLOCATION

- C.22 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's Policy Framework.
- C.23 The Section 151 Officer is responsible for:
- a. advising on methods available for the funding of resources, such as grants from central government and borrowing requirements
  - b. assisting in the allocation of resources to budget managers
- C.24 Executive Directors and Assistant Directors are responsible for:
- a. working within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way
  - b. identifying opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery

## CAPITAL EXPENDITURE

- C.25 Capital expenditure is broadly defined as expenditure on the acquisition of a tangible asset, or expenditure which enhances (rather than merely maintains), the value of an existing asset and/or extends the useful life of an asset and increasing usability, provided that the asset yields benefits to the Council and the services it provides is for a period of more than one year. Sefton's de minimis level for new assets is currently £10,000. This limit can be varied at the discretion of the Section 151 Officer.

## CAPITAL MONITORING, APPROVALS AND AMENDMENTS TO THE CAPITAL PROGRAMME

- C.26 The Section 151 Officer is responsible for preparing and submitting reports to Cabinet on the Council's projected capital expenditure and resources compared with the budget on a regular basis, as well as an annual outturn report after the close of the financial year.
- C.27 The Section 151 Officer is responsible for establishing procedures to monitor and report on performance compared to the prudential indicators set by the Council.

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- C.28 The Section 151 Officer in conjunction with the Chief Executive is responsible for:
- a. Setting up procedures under which capital expenditure proposals are evaluated and appraised to ensure that value for money is being achieved, are consistent with service and are achievable
  - b. Compiling a capital programme for approval by Council
  - c. Setting up procedures for corporate monitoring of external sources of capital funding
  - d. Ensuring that expenditure treated as capital expenditure by the Council is in accordance with the best accounting practice
- C.29 Executive Directors and Assistant Directors are responsible for:
- a. liaising with the Section 151 Officer ensuring that estimated final costs of schemes in the approved capital programme are included within the reports to Cabinet of the overall capital programme position
  - b. reporting to the Section 151 Officer circumstances when it is considered that additional Council capital resources will be required to implement a project that has previously been given approval to spend, where such additional resources cannot be identified from within the portfolio programme concerned
  - c. reporting to the Section 151 Officer on any proposed variations to the capital programme during a financial year
  - d. seeking authority for a capital scheme which is not in the capital programme agreed by Council or changes to capital programme
- C.30 Any 'in year' approval sought for capital schemes, must be supported by a completed, detailed Business Case template, in a format approved by the Section 151 Officer, prior to submission through the appropriate decision-making route.

## CAPITAL RECEIPTS

- C.31 The Section 151 Officer must be informed of all proposed sales of land and buildings so that the effect on financial and property management can be assessed.
- C.32 On the advice of the Section 151 Officer, the Council will determine how capital receipts will be applied when setting the annual revenue and capital budget.

## LEASING AND RENTAL AGREEMENTS

- C.33 Leasing or renting agreements must not be entered into unless the service has established that they do not constitute a charge against the Council's prudential borrowing limits. The Section 151 Officer is responsible for issuing any financial procedures /guidance in relation to Leases and Lease agreements including, but not limited to, those leases and lease arrangements relating to schools, commercial and general leasing activity. Leases, including land or property, of less than 20 years can be agreed by the Section 151 Officer via a Chief Officers Report. Leases, including land and property, of 20 years or more will require Cabinet Member approval in addition to the Section 151 Officer.
- C.34 Leases relating to land or property following the approval process can only be signed by the Monitoring Officer or his/her authorised deputies, or persons specifically authorised by the Service Scheme of Financial Delegation, may sign such agreements. The Chief Executive, Executive Directors and Assistant Directors are responsible for ensuring all procedures / guidance issued by the Executive Director of Corporate Resources and Customer Services in regard to Leases and Lease arrangements are complied with.

## COMMERCIAL ACTIVITY

- C.35 The Council holds a selection of assets that support the Council's Core Purpose and operate on a more commercial basis than other elements of the Council's General Fund. These include the Council's wholly owned companies – Sandway Homes Limited, Sefton Hospitality Operations Limited and Sefton New Directions Limited – together with Bootle Strand Shopping Centre.
- C.36 For such defined assets, detailed business plans outlining forecast income and expenditure over a determined period are produced for approval by Cabinet. Business plans should be reviewed and refreshed annually and presented to Cabinet for approval. Where the business plans require budgetary approval – including revenue or capital expenditure– this is approved in line with the requirements of the Financial Procedure Rules.
- C.37 In order to support the management of these assets, appropriate governance via officer boards – for Council assets – or shareholder meetings – for Council companies – will be established to provide strategic direction, monitor progress against the delivery of Council objectives, monitor the delivery of the business plan and record any decisions required to be taken in respect of the delivery of the business plan. The approval of these business plans will include provision that all financial (capital and



- revenue) and operational decisions will be delegated to the officer boards or shareholder meetings (as appropriate) with Cabinet informed of any material variations in accordance with the Council's normal reporting processes and the governance arrangements between the Council and Company as appropriate.
- C.38 The approach to the management of wholly owned companies will reflect best practice guidance within the sector. This is an area in local government that is continually updated to reflect developments in the sector and to take on learning to ensure governance and management of such companies complies with best practice. As such Cabinet as the Council's executive and shareholder will be informed of this best practice guidance and any subsequent changes or developments in order that they can execute their role as shareholder effectively. Overview and Scrutiny management board will also receive this report. This will ensure that there is a fully transparent and up to date approach to governance and management within the Council.
- C.39 Any loan arrangements between the Council and the specific Company will be in accordance with the requirement of the Financial Procedure Rules.
- C.40 For Council assets, officer boards will review monitoring reports on financial and operational performance on a monthly basis and will escalate any material variations to Cabinet as part of the Council's normal monthly budget monitoring process or via standalone reports where appropriate. For Council owned companies, any material variations will be escalated from shareholder meetings to Cabinet as shareholder at the earliest opportunity in accordance with the agreements between the Council and the Company.
- C.41 Where there are requirements for additional financial resources in year for additional activity not included within the approved business plans – such as additional revenue or capital expenditure – approval should be sought in line with the requirements of the Financial Procedure Rules for supplementary revenue or capital estimates. The write-off of any assets or unrecoverable bad debts associated with these commercial assets should be approved as outlined under the Asset Disposal / Write-Off section of the Financial Procedure Rules.
- C.42 Business plans should be reviewed and refreshed annually and presented to Cabinet for approval each Autumn to allow for the financial implications to be included within the budget each Spring. Annual reports on financial and operational performance should also be presented to Overview and Scrutiny Committee.
- C.43 Cabinet will continue to have executive leadership of commercial assets and will monitor performance through the approval and monitoring of business plans, ensuring that capital expenditure is in accordance with the Councils Treasury Management Strategy and Prudential Indicators. Performance will be reported on a quarterly basis.

## MAINTENANCE OF RESERVES

- C.44 It is the responsibility of the Section 151 Officer to advise the Cabinet and/or the full Council on prudent levels of reserves for the Council.
- C.45 The key controls are:
- a. Professional standards as set out in the Code of Practice on Local Authority Accounting in the United Kingdom: and agreed accounting policies
  - b. Clear agreement of the purpose for which reserves are held and the type of expenditure which they may be used to fund
  - c. Clear processes for the authorisation of Appropriations (transfers between accounts to and from reserves)
- C.46 The Section 151 Officer is responsible for advising the Cabinet and/or the full Council on prudent levels of reserves for the Council, having due regard to any advice that may be offered by the Council's external auditor and other professional bodies (e.g. CIPFA) in this matter.
- C.47 Executive Directors and Assistant Directors are responsible for ensuring that resources are used only for the purposes for which they were intended.

## REPORTING

- C.48 Executive Directors and Assistant Directors are responsible for preparing reports on overall financial and non-financial performance for their Services and for submitting these to the Cabinet, and the Overview and Scrutiny Committee after consulting the Section 151 Officer in accordance with procedures agreed from time to time. These reports must include specific reference to the implementation of policy changes and new developments agreed as part of the budget setting process and other specific requirements as notified in the reporting guidance. Executive Directors and Assistant Directors will also be required to support the Section 151 Officer in reporting on the progress and forecast of all capital expenditure and income against the approved programme.
- C.49 Any reports are to include specific reference to Service performance against the expected non-financial outcomes in the form of key performance targets. Executive Directors and Assistant Directors are expected to achieve value for money in the delivery of services and the reports should demonstrate how this has been achieved together with an analysis of how key policy and expenditure proposals have been

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implemented.

C.50 The key reporting stages are:

- a. Approval of the Business Case, which will be in a form prescribed by the Section 151 Officer before it can be included in the Capital Programme
- b. Monthly reviews of revenue and capital expenditure produced by the Section 151 Officer in consultation with Executive Directors and Assistant Directors
- c. Final outturn reports for both revenue and capital expenditure, including full post-implementation review, on all major capital schemes completed during the year.

C.51 In addition, the reports will be specifically required to give details in respect of the following:

- a. Potential overspends and proposed remedial action, including any impact on balances and future year's budgets which may need to be factored in to future financial scenario planning
- b. Amendments to approved budgets (virements, supplementary capital estimates etc.) where Member approval is required.

## SECTION D - RISK MANAGEMENT AND CONTROL OF RESOURCES

### WHY THIS IS IMPORTANT

- D.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

### WHAT IS COVERED IN THIS SECTION

- D.2 The following aspects of Risk Management and Control of Resources are covered in this section:

- Risk Management and Insurance
- Operational Risk
- Business Continuity
- Internal Controls
- Audit Requirements (Internal and External)
- Preventing Fraud and Corruption
- Assets (Property, Inventory, Stocks, Cash, Disposal / Write Off and Intellectual Property)
- Treasury Management
- Banking
- Investments and Borrowing
- Loans to Third Parties and Acquisition of Third Party Interests
- Trust Funds and Funds Held for Third Parties
- Staffing (Salaries and Wages, Early Retirement/Severance, Travelling and Subsistence, Code of Conduct, Third Party Funds and Retention of Records)

### RISK MANAGEMENT AND INSURANCE

- D.3 The Cabinet is responsible for advising Council on an appropriate risk management policy statement and strategy, and for reviewing the effectiveness of risk management. The Audit and Governance Committee is responsible for monitoring the effectiveness of the risk management policy. The Cabinet is also responsible for ensuring that proper insurance exists where appropriate.
- D.4 The Section 151 Officer is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.

## INSURANCE

- D.5 The Section 151 Officer will maintain and administer the Council's insurances. The Section 151 Officer is responsible for authorising the settlement or repudiation of insurance claims and associated costs acting on advice from the Council's Legal Services, insurers, and claim handlers.
- D.6 Executive Directors and Assistant Directors are responsible for informing the Section 151 Officer immediately of:
- a. any events which may result in an insurance claim against the Council
  - b. the terms of any indemnity which the Council is required to give prior to entering into any contracts etc.
  - c. any new risks which might require to be insured, together with any changed circumstances affecting existing risks. Consideration should be given to new projects, new ways of working, and changes in legislation requiring new ways of delivery etc., where the insurance impact is often overlooked
- D.7 No new insurances may be taken out without prior consultation with the Section 151 Officer.
- D.8 Executive Directors and Assistant Directors must ensure that there is co-operation with the Insurance Team in providing the correct documentation and that the correct retention of documents is observed.

## RISK MANAGEMENT

- D.9 The Council's approach to Risk Management is that it should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.
- D.10 The Section 151 Officer develops the strategy and supporting framework on behalf of Executive Directors and Assistant Directors. The Audit and Governance Committee scrutinise the risk management process ensuring the Council's risks are managed effectively.
- D.11 Executive Directors and Assistant Directors are responsible for ensuring the Risk Management Strategy is implemented and that the full risk management cycle operates within their Service.

- D.12 The principles within the Corporate Risk Management Handbook consist of:
- a. identification of risks, both negative and positive, in relation to the objectives of the Council.
  - b. evaluation of risks scored for likelihood and impact, both gross (before any controls) and net (with existing controls)
  - c. treatment of the risk either by: treat, tolerate, transfer or terminate the activity.
  - d. actions and risks monitored and reviewed on a regular basis.
  - e. the Council's Corporate Risk Register will be developed and maintained by the Chief Internal Auditor in consultation with Executive Directors and Assistant Directors.
- D.13 There are three levels to the Risk Register. There should be a movement of risks both upwards and downwards throughout the levels and treatment addressed at the most appropriate level of the organisation.
- a. Corporate – those risks that impact on the organisation's overall objectives either because of their frequency of occurrence or the significance of the impact.
  - b. Service – those risks that impact on the service objectives.
  - c. Operational – minor risks that are managed within the service area that impact on the operational performance of the team. Where the risks increase they should move upwards into the service and potentially corporate risk register.

## OPERATIONAL RISK

- D.14 Executive Directors and Assistant Directors are responsible for ensuring risk management is carried out at both an operational and strategic level in accordance with the agreed guidance and procedures.
- D.15 Executive Directors and Assistant Directors will take account of, and address, corporate risks and inform the Chief Internal Auditor of any service risks that should be considered significant enough to rise to the corporate risk register level.
- D.16 Service and operational risk registers, and associated actions, should be reviewed on a regular basis (at least quarterly) as part of the performance management process.
- D.17 The Corporate Risk Register will be reported to Executive Directors and Assistant Directors / Strategic Leadership Board and to the Audit and Governance Committee on a quarterly basis.

## BUSINESS CONTINUITY

- D.18 The Civil Contingencies Act 2004 places a statutory requirement for Local Authorities to maintain plans for the continuation of services in the event of an emergency, so far as is reasonably practicable. Services are expected to have arrangements in place to ensure the effective identification, evaluation and management of business critical services.

## INTERNAL CONTROLS

- D.19 Internal Control refers to the systems devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets are safeguarded.
- D.20 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.
- D.21 It is the responsibility of Executive Directors and Assistant Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness.

## AUDIT REQUIREMENTS

### INTERNAL AUDIT

- D.22 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2015 more specifically require that a "relevant authority must ensure that it has a sound system of internal control which facilitates the effective exercise of its functions and the achievement of its aims and objectives; ensures that the financial and operational management of the authority is effective; and includes effective arrangements for the management of risk."
- D.23 The Public Sector Internal Audit Standards define internal auditing as "an independent, objective assurance and consulting activity designed



to add value and improve and organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes."

- D.24 The Council's Internal Audit Team delivers this function within the Council and provides assurance to the Section 151 Officer and the Audit and Governance Committee, with regard to the effectiveness of the Council's internal control environment.
- D.25 The Council must, on an annual basis, produce an Annual Governance statement. This statement must provide a description of the system of internal control within the Council, a description of any work undertaken to assess the effectiveness of the internal control framework, and any significant governance issues.
- D.26 To contribute to the production of the Annual Governance Statement, the Chief Internal Auditor is responsible for planning and delivering a programme of independent review of the Council's activities, the scope of the programme being based on the Council's objectives and an assessment of the risk which may affect the achievement of these objectives.
- D.27 The Chief Internal Auditor is also responsible for reporting to those charged with governance and currently satisfies this requirement by presenting an annual report to the Audit and Governance Committee, in which the activity of the internal audit service during the preceding financial year is summarised as to arrive at an opinion on the effectiveness of the Council's internal control. The annual internal audit plan is presented to Audit and Governance Committee for approval and a report summarising performance and key findings is presented to every Audit and Governance meeting.
- D.28 The Internal Audit Charter sets out that Audit staff will have, in accordance with the Accounts and Audit Regulations, and with strict accountability for confidentiality, and safeguarding records and information, full, free and unrestricted access to any and all of the Council's premises, personnel, assets and records. Rights of access to relevant external bodies will be set out in the contracts/ agreements.

## EXTERNAL AUDIT

- D.29 The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- D.30 The Local Audit and Accountability Act 2014 established new arrangements for the audit and accountability of relevant authorities. Under these new arrangements the Council has opted for its external

auditors to be appointed by the Public Sector Audit Appointments Limited (PSAA), an independent company established by the LGA for this purpose.

- D.31 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

## PREVENTING FRAUD AND CORRUPTION

- D.32 The Section 151 Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy which should be presented to Cabinet for approval.
- D.33 The Council has an approved Anti-Fraud and Corruption Policy which places responsibility for preventing fraudulent activity with all Members, Managers and individual members of staff. Any matters which involve, or are thought to involve, any fraud or other significant irregularity involving Council assets or those of a third party fund, must be notified immediately to the Section 151 Officer and Chief Internal Auditor.
- D.34 The Monitoring Officer will, in consultation with Section 151 Officer and Chief Internal Auditor, decide whether any matter under investigation should be recommended for referral to the Police or the appropriate enforcement agency. The Council's External Auditor also has powers to independently investigate fraud and corruption.

## ASSETS

- D.35 In the context of these Rules, assets are defined as the resources, other than people, that the Council uses to deliver its service functions. Assets include buildings, land and infrastructure; furniture; equipment; plant; stores and "intellectual property" such as computer software, data and information of all kinds.
- D.36 Executive Directors and Assistant Directors are responsible for the care, control and proper and economical use of all assets used in connection with the operation and delivery of their Services. Proper records should be maintained for these assets, together with appropriate arrangements for their management and security. Information Assets should be recognised in line with the Council's guidance and recorded in the Information Asset Register.
- D.37 Executive Directors and Assistant Directors are responsible for ensuring that assets are used only for official purposes and that all appropriate

rights, licenses and insurances are obtained.

- D.38 Executive Directors and Assistant Directors are responsible for ensuring that all computer software used is properly licensed.
- D.39 Executive Directors and Assistant Directors are expected to have policies in place for:
  - a. the effective disposal of surplus assets
  - b. asset replacement programme
  - c. compilation of and regular review of Asset inventories
- D.40 The Service Manager – Property Services is responsible for ensuring there is a current Asset Management Strategy and Asset Disposal Policy in place.

## PROPERTY

- D.41 The Service Manager – Property Services is responsible for maintaining a “property terrier” recording all land and buildings owned by the Council. The delegated Monitoring Officer is responsible for the safe keeping and recording of all property deeds.
- D.42 The Council’s Asset Management Strategy sets out the vision, core values and objectives that form the context for the preparation of the Corporate Asset Management Plan and Service Asset Management Plans.
- D.43 All property acquisitions, lettings and disposals must be in accordance with the Council’s rules and procedures. Separate rules apply to specific processes, such as the use of capital receipts from property sales to pay for new schemes, and guidance should be sought from the Section 151 Officer where this arises.

## INVENTORIES

- D.44 Executive Directors and Assistant Directors must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items, including vehicles, furniture, computer and other equipment (including software), visual aids, expensive tools and sports equipment.
- D.45 For ICT equipment, Executive Directors and Assistant Directors must ensure they, and staff within their service areas, adhere to the requirements of the ICT Acceptable Use Policy, the Starters, Movers and Leavers Policy and any associated guidance.
- D.46 The inventory must be updated for all acquisitions and disposals and checked at least annually. Items acquired under leasing arrangements

must be separately identified for disclosure in the published final accounts. The Section 151 Officer will provide guidance on the procedures to be followed.

## STOCKS

- D.47 Stock is defined as consumable items constantly required and held by a Service in order to fulfil its functions. Executive Directors and Assistant Directors are responsible for the control of stocks. They must ensure that stocks are appropriately secured and recorded, do not exceed reasonable requirements and that all significant stock is accounted for in the year end accounts. Stocks should be checked at least once a year, more frequently in the case of expensive items.

## CASH

- D.48 Cash held on any Council premises should be held securely, and should not exceed any sums for which the Council is insured. If retention of cash on site is unavoidable in exceptional circumstances, the Assistant Director is responsible for making appropriate security arrangements. All cash should be banked as quickly as possible.

## ASSET DISPOSAL/WRITE-OFF

- D.49 Executive Directors and Assistant Directors may authorise the disposals, of obsolete or surplus equipment / groups of items, materials, vehicles or stores up to a disposal value of £10,000 in consultation with the Section 151 Officer. For write offs of £10,000 and over per item or group of items, this should be reported jointly by the Section 151 Officer and the relevant Assistant Director to the Audit and Governance Committee for write-off action.
- D.50 Any write off which arises as a result of theft or fraud must be notified to the Chief Internal Auditor immediately.

## INTELLECTUAL PROPERTY

- D.51 The Chief Executive is responsible in conjunction with the Monitoring Officer for developing and disseminating best practice regarding the treatment of intellectual property.

- D.52 The Chief Executive, Executive Directors and Assistant Directors are responsible for:
- a. Ensuring that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware that anything they create during the course of their employment, whether written or otherwise, belongs to the Council.
  - b. Complying with copyright, design and patent legislation and, in particular, to ensure that:
    - Only software legally acquired and installed by the authority is used on its computers,
    - Staff are aware of legislative provisions, and
    - In developing systems, due regard is given to the issue of intellectual property rights.

## TREASURY MANAGEMENT

- D.53 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- D.54 The full Council is responsible for approving the treasury management policy statement setting out the matters detailed in CIPFA's Code of Practice for Treasury Management in Local Authorities. The policy statement is proposed to the full Council by the Cabinet. The Section 151 Officer has delegated responsibility for implementing and monitoring the statement.
- D.55 All money in the hands of the Council is controlled by the Section 151 Officer as designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the finance director.
- D.56 The Section 151 Officer is responsible for proposing to the Cabinet a treasury management strategy for the coming financial year at or before the start of each financial year. Full Council is responsible for approving the strategy.
- D.57 All Cabinet decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- D.58 The Section 151 Officer is responsible for reporting to the Council no less than two times in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprises a mid-year review and an annual report on treasury management for presentation prior to the 30<sup>th</sup> June following each financial year end.

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## BANKING

- D.59 It is the responsibility of the Section 151 Officer to operate such bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Section 151 Officer.
- D.60 Executive Directors and Assistant Directors are responsible for operating bank accounts opened with the approval of the Section 151 Officer in accordance with issued guidelines.

## INVESTMENTS AND BORROWINGS

- D.61 It is the responsibility of the Section 151 Officer to:
- a. ensure that all investments of money are made in the name of the Council or in the name of approved nominees
  - b. ensure that all securities that are the property are held in the name of the Council or its nominees (the Chief Legal and Democratic Officer is responsible for ensuring the title deeds of all property in the Council's ownership is held in safe custody)
  - c. effect all borrowings in the name of the Council
  - d. act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council

## LOANS TO THIRD PARTIES AND ACQUISITION OF THIRD PARTY INTERESTS

- D.62 Interests should not be acquired in companies, joint ventures or other enterprises without obtaining prior approval of the full Council, the Leader, Cabinet or the appropriate Cabinet Member as outlined below.
- a. The Section 151 Officer, Cabinet Member for Regulation and Compliance and relevant Cabinet Member(s) are jointly responsible for approving financial and asset loans made to third parties up to £50,000
  - b. The Cabinet is responsible for approving financial and asset loans between £50,000 and £1m
  - c. The Council is responsible for approving financial or asset loans above £1m
  - d. Loans transacted as part of Treasury Management activities are covered by the Treasury Management Policy and Strategy.
- D.63 For wholly owned council companies, Cabinet as the Executive of the Council and the shareholder in wholly owned Council companies, make

decisions in respect of approving business plans including any loan provision.

## TRUST FUNDS AND FUNDS HELD FOR THIRD PARTIES

D.64 It is the responsibility of the Section 151 Officer to:

- a. arrange for all trust funds to be held, wherever possible, in the name of the Council (e.g. 'Sefton Metropolitan Borough Council on behalf of.....'). All officers acting as trustees by virtue of their official position shall deposit securities, etc. relating to the trust with the Section 151 Officer, unless the deed otherwise provides.
- b. arrange where funds are held on behalf of third parties, for their secure administration, approved by the Section 151 Officer, and to maintain written records of all transactions
- c. ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust
- d. Approval of procedures for the management of Clients financial affairs, where the Council has been granted advocacy, Appointeeship and/or Deputyship
- e. The Executive Directors of Children's Social Care and Adult Social Care are responsible for ensuring procedures in relation to the management of Clients financial affairs are complied with.

## STAFFING

### SALARIES AND WAGES

- D.65 Executive Directors and Assistant Directors are responsible, in consultation with the Chief Personnel Officer, for providing accurate and appropriate information and instructions to the Transactional HR, Payroll & Pensions Services to enable the calculation and prompt payment of salaries, expenses and pensions, including details of appointments, promotions, regrading, resignations, dismissals, retirements and absences from duty. Human Resources will advise the Transactional HR, Payroll & Pensions Services of relevant changes in respect of employee's pensions. The Service Manager – Employee Support will make arrangements for payment to the appropriate bodies, of all statutory, including taxation, and other payroll deductions.
- D.66 Time sheets and other pay documents which are used to generate payment of salaries, wages or other employee-related expenses must be on official forms or via authorised electronic inputs. Executive Directors and Assistant Directors are responsible for ensuring that they are certified



by an authorised officer and that they are submitted to the Transactional HR, Payroll & Pensions Services in accordance with the specified timetable. This includes on-line input entered locally. The names and specimen signatures of authorised officers must be secured by Executive Directors and Assistant Directors and included in the service Scheme of Financial Delegation notified to the Section 151 Officer.

- D.67 The Chief Personnel Officer will implement national and local pay agreements as soon as possible after their notification from the appropriate body. Arrangements for funding such awards will be determined each year as part of the budgetary process.

## EARLY RETIREMENT/SEVERANCE

- D.68 Where Executive Directors and Assistant Directors wish to bring forward proposals under the Council's policies on severance and early retirement, they must be accompanied by a full cost and affordability assessment, in a form agreed by the Chief Executive, the Section 151 Officer and the Chief Personnel Officer. The Cabinet Member for Regulatory Compliance and Corporate Resources shall be consulted for proposals relating to Hay Grade 6 and above.
- D.69 The Chief Executive or Section 151 Officer must approve all requests up to £100,000 including pension strain. All requests in excess of £100,000 including pension strain must be approved by the Pay and Grading Committee.
- D.70 Executive Directors and Assistant Directors will generally be required to meet the costs of severance and early retirement from within their approved budget. Service efficiency applications may be subject to phasing over an agreed period. A corporate budget may also be established for staffing reductions linked to the Council's MTFP saving options and access to this budget will be subject to the agreement of the Chief Executive and the Section 151 Officer.

## TRAVELLING AND SUBSISTENCE

- D.71 The Section 151 Officer and the Chief Personnel Officer are responsible for issuing guidance on travelling and subsistence. Executive Directors and Assistant Directors are accountable for ensuring their teams follow the approved guidance on travelling and subsistence claims.
- D.72 Executive Directors and Assistant Directors are responsible for instructing the Chief Personnel Officer and for providing appropriate and accurate information to enable the prompt and accurate payment of travelling, subsistence and other expenses to authorised employees in

accordance with the terms of employment agreed by the Council.

- D.73 Executive Directors and Assistant Directors are responsible for ensuring that Council employees who use their cars for official business are properly insured to indemnify the Council against any loss and for ensuring that payments are only made in respect of journeys which are necessary and actually undertaken. Executive Directors and Assistant Directors should ensure that the most economical available means of transport is used, including pool cars, hire cars and car sharing.
- D.74 All claims for reimbursement must be made using appropriate official claim forms, always using electronic processing where available.
- D.75 Further guidance is available via the Intranet - Pay and Expenses.

## CODE OF CONDUCT

- D.76 The Code of Conduct for Employees applies to, and will be followed by all officers. It covers financial, personal and other interests, gifts hospitality and other favours, sponsorship – giving and receiving, use of financial resources, disclosure of information, relationship with others, and separation of duties during tendering, appointments, political neutrality, additional employment, intellectual property, equality and declarations.
- D.77 Where an outside organisation wishes to sponsor or is asked to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality applies, as detailed in the Code of Conduct for Employees.
- D.78 Further guidance is available via the Intranet – Personnel Policies and Procedures.

## THIRD PARTY FUNDS

- D.79 A third party fund is defined as any fund financed other than by the Council, controlled wholly or partly by a member of the Council's staff in connection with the clients, establishments or activities of the Council such as School Funds, Amenity Funds or Criminal Injuries Compensation Payments for children in care. A register of third party funds will be maintained by the Corporate Finance team.
- D.80 Money or goods belonging to the Third Party Fund must be kept completely separate from other money or goods belonging to the Council. Similarly, completely separate records must be kept of the money or goods involved.

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- D.81 An independent auditor must be appointed who has suitable qualities though not necessarily professionally qualified, to audit the Third Party Fund on an annual basis. Annual Statements of Account and Audit Certificates must be formally presented to a Management Committee or other appropriate governing body of the Third Party fund.
- D.82 Executive Directors and Assistant Directors are responsible for ensuring that any Third Party Funds controlled by Council staff are:
- a. formally declared to Corporate Finance team as part of a register kept by the Service
  - b. maintained separately and correctly in accordance with these Financial Procedure Rules, and
  - c. subject to the same standards of stewardship and probity as Council funds
- D.83 The Returning Officer will be responsible for maintaining complete and accurate records and for reconciliation with regard to elections accounts.

## RETENTION OF RECORDS

- D.84 The Council, in common with other public and private organisations, has certain statutory obligations it has to meet for the retention of its records. It also has to fulfil the requirements of HM Revenue and Customs, other legislative requirements and the external auditors in respect of its financial records.
- D.85 All records held should have an appropriate retention period assigned to them, which meet the statutory obligations to retain financial records, but also takes into account legislative requirements such as the Limitation Act and General Data Protection Regulation; Freedom of Information requirements; and the business needs of the Service.
- D.86 The majority of financial records must be kept for six years from the end of the tax year to which they relate. Some records however, may need to be kept for longer periods e.g. if required to defend future insurance claims. It is possible others can be destroyed within shorter periods. Guidance on the appropriate retention period is given in the Council's Retention Policy and its Information Asset Register.

## SECTION E - FINANCIAL SYSTEMS AND PROCEDURES

### WHY THIS IS IMPORTANT

- E.1 Sound systems and procedures are essential to an effective framework of accountability and control.

### WHAT IS COVERED IN THIS SECTION

- E.2 The following aspects of Financial Systems and Procedures are covered in this section:

- Banking Services
- Banking Arrangements
- Income (Generating Income, Charging for Income, Collecting Income and Bad Debts)
- Ordering and Paying for Work, Goods and Services (General Principles, Payment of Invoices, Non-Invoice Payments, Credit Cards/Debit Cards/Purchase Cards, Imprest Accounts, Payment to Members and Financial Arrangements in an Emergency)
- Taxation
- Trading Accounts and Business Units

### BANKING SERVICES

- E.3 The Council will approve the terms under which banking services, including overdraft facilities, are provided.

### BANKING ARRANGEMENTS

- E.4 All bank accounts must be titled impersonally in the name of Sefton Metropolitan Borough Council.
- E.5 Subject to any directions given by the Council, all arrangements with the Council's bankers must be made solely through the Section 151 Officer. No bank accounts may be opened or arrangements made with any other bank except by agreement with the Section 151 Officer.
- E.6 Bank transfers from the General Fund and subsidiary accounts must be authorised by the Section 151 Officer, or those officers authorised to sign through the agreed Scheme of Financial Delegation or in accordance with the Treasury Management Policy and Strategy.

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- E.7 Cheques drawn must bear the mechanically impressed signature of the Section 151 Officer or be signed by the Section 151 Officer or other officer authorised to sign through the agreed Scheme of Financial Delegation.

## INCOME

### GENERATING INCOME

- E.8 The Section 151 Officer is responsible for developing and maintaining standards, procedures, systems and reports to facilitate the effective and efficient identification, collection, receipting, banking and recovery of income due to the Council in accordance with current relevant UK legislation.
- E.9 Executive Directors and Assistant Directors are responsible for ensuring that the appropriate legal authority for all income generating activities has been identified.

### CHARGING FOR INCOME

- E.10 Executive Directors and Assistant Directors, in consultation with the relevant Cabinet Member, shall determine on an annual basis the level of fees or charges payable in respect of any chargeable goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery. These will be approved by Cabinet Member in advance of the start of the financial year.
- E.11 There may be circumstances where fees and charges require in year amendments – for example, during periods of economic uncertainty, where there are volatile rates of inflation and sector specific pressures. These in year changes will be approved by the relevant Cabinet Member.

### COLLECTION OF INCOME

- E.12 The Council operates a Sundry Debt Collection policy to secure invoiced sundry debt income for the provision of services. All debt owing to the Council must be collected promptly, effectively, efficiently and economically, while ensuring fair treatment of those that owe money, including consideration of any financial difficulties.
- E.13 Council officers must comply with guidelines issued by the Section 151 Officer, and those contained in the Corporate Debt Policy and Corporate Debt Procedures for the safe and efficient collection and recording of all money due to the Council.

- E.14 Executive Directors and Assistant Directors are responsible for ensuring that accounts for income due to the Council, including grant claims, reimbursements and third party contributions, are raised immediately and accurately in a form approved by the Section 151 Officer. These must include VAT where appropriate.
- E.15 The cost of collection should be taken into account when raising accounts. Executive Directors and Assistant Directors must ensure that the method of collection is the most cost effective relative to the value of the transaction.
- E.16 Executive Directors and Assistant Directors are responsible for ensuring that all income received is receipted, where required, recorded correctly against the appropriate budgets, and in the case of cash and cheques, banked with the minimum of delay. The frequency of banking should follow guidelines provided by the Section 151 Officer Services should avoid incurring disproportionate banking charges on relatively low value transactions, taking into account local security arrangements.
- E.17 Executive Directors and Assistant Directors are responsible for monitoring income collection and ensuring appropriate recovery action is taken. A summary of the position on the level of outstanding debt and collection issues should be included in quarterly financial updates and the final outturn report.
- E.18 The Section 151 Officer will monitor compliance with Executive Director and Assistant Director responsibilities regarding the collection of income and may, in circumstances where avoidable adverse cash flow has resulted, determine an appropriate interest charge against Service budgets.
- E.19 Credit notes must be authorised by appropriate officers nominated in the local Scheme of Financial Delegation.
- E.20 Any receipts, tickets or other documents used as receipts should be in a format agreed by the Section 151 Officer. All controlled stationery issued to a Assistant Director must be recorded in a register, which is held by a single officer within each Service.
- E.21 There may be circumstances where third parties wish to exit income generating contracts early in return for providing the Council with a lump sum. Where these proposals are within the approved budget policy framework and have:
- No detriment financially and reflects current income being received
  - That the annual sums are received at the same level and the timeline at least as what is being received under the contract; and

- Any lump sum at the end of the contact period is based on current income levels and the timing is at least as currently set out within the existing agreement

Then this can be approved by the relevant Cabinet Member and the Cabinet Member - Regulatory, Compliance and Corporate Services and reported in line with the Council's established monitoring process. Any lump sums will be reserved and used to support the budget as originally set out.

- E.22 Where third parties wish to exit income generating contracts early and these cannot be contained within the existing budget policy framework, then these should be approved in line with the requirements for Supplementary Revenue Estimates as set out within the Financial Procedure Rules.

## BAD DEBTS

- E.23 The Section 151 Officer is responsible for producing and issuing guidance on bad debt. Executive Directors and Assistant Directors are responsible for ensuring their teams comply with this guidance and the Corporate Debt Policy and Procedures.
- E.24 All debts which are due to the Council will be subject to full recovery, collection and legal procedures as detailed in the Council Corporate Debt Policy and Procedures. However, not all debts may be collectable and therefore it will be appropriate, in certain circumstances, to classify debts as irrecoverable or "bad debts".
- E.25 Bad debts of up to £10,000 may be written off by Authorised Officers as contained in the Scheme of Financial Delegation in consultation with the Section 151 Officer and the Monitoring Officer. Bad debts of £10,000 and over should be reported jointly by the Section 151 Officer and the relevant Assistant Director to the Audit and Governance Committee for write-off action.
- E.26 Any write off which arises as a result of theft or fraud must be notified to the Chief Internal Auditor immediately.
- E.27 Executive Directors and Assistant Directors are responsible for ensuring that an adequate provision for bad debt is made in the Council's accounts at year end and that contributions to this provision are included in budgetary projections and outturn reports.



## ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

### GENERAL PRINCIPLES

- E.28 Executive Directors and Assistant Directors are responsible for providing all appropriate information and instructions to Transactional Services to allow for prompt and accurate payment for goods and services provided and for the analysis of expenditure.
- E.29 Except for purchases by purchase /credit /debit card, all purchases must be supported by an official requisition. All purchases must have regard to Contract and Financial Procedure Rules.
- E.30 All requisition and purchase orders must be authorised in accordance with the relevant service Scheme of Financial Delegation to ensure that funds are available to pay for the purchase.
- E.31 All official purchase orders must include, as a minimum, the order number, the price agreed with the supplier, description of the goods or services to be provided, the delivery address, the address where invoices must be received and a link to the standard terms and conditions for the goods and services to be provided.
- E.32 Executive Directors and Assistant Directors must ensure that there is adequate separation of duties in the raising and authorisation of requisitions, authorising of purchase orders, receipt of goods and authorisation of payments to transactional services.
- E.33 Executive Directors and Assistant Directors must ensure robust processes to continually maintain computer records and accesses, and Schemes of Financial Delegation so that electronic workflows associated with core financial systems are not compromised.
- E.34 All procurement, commissioning, contract administration or contract management must be carried out in accordance with the Council's Contract Procedure Rules
- E.35 Executive Directors and Assistant Directors must consult the Section 151 Officer on appropriate arrangements for purchases of goods and services which cannot be accommodated within standard ordering and payment processes.

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## PAYMENT OF INVOICES

- E.36 All invoices must be sent directly by the creditor to the address stated on the official purchase order to enable prompt payment.
- E.37 All invoices, as a minimum, must include the official purchase order number, the description of the goods or services provided, the quantity delivered, the delivery address, the date of the invoices and/ or date of delivery of the goods or services, the address and VAT registration number of the supplier and the price and VAT at the prevailing rate.
- E.38 Invoices received without a valid purchase order number may be returned to the creditor as unauthorised for payment.
- E.39 The Council's standard payment terms are 30 days from receipt of a correct invoice by BACS (Bankers Automated Clearing System). Alternative terms may not be negotiated or agreed with suppliers without the explicit approval of the Section 151 Officer. Executive Directors and Assistant Directors are responsible for notifying suppliers of these terms and for ensuring that they are observed by all those involved in the purchasing and payment processing.
- E.40 Payment will only be made for goods and services which have been formally receipted in accordance with receipting procedures set out by the Section 151 Officer.
- E.41 All procurement, commissioning, contract administration or contract management activity must be carried out in accordance with the Council's Contract Procedure Rules and any advice or guidance that may be issued from time to time by the Section 151 Officer regarding the efficient and effective use of the Council's core financial and e-procurement systems and processes. Invoices received for payment must comply with the Council's best practice processes.

## NON-INVOICE PAYMENTS

- E.42 Where Executive Directors and Assistant Directors wish to initiate a payment to a third party without a supporting invoice, an official request for payment must be submitted in a form approved by the Section 151 Officer.
- E.43 Any such requests must be authorised by an officer designated with an appropriate approval limit in the relevant service Scheme of Financial Delegation. They are responsible for ensuring that all payment details provided are accurate and that supporting records and documentation are available to substantiate the payment, including an official VAT receipt to

allow for the reclaim of any VAT element.

- E.44 Appropriately authorised requests for payment will be processed and paid by BACS. Cheques will only be used in exceptional cases and by prior agreement.
- E.45 Non-invoice payments should be requested on an exceptional basis only. Where payments of this type need to be made on regular basis Executive Directors and Assistant Directors must consider, in conjunction with the Section 151 Officer, other alternative options which may be more appropriate.
- E.46 Payments or reimbursements in respect of salaries and wages travelling expenses or other employment allowances must be processed through the Payroll system and not treated as a non-invoice payment.

## CREDIT CARDS, DEBIT CARDS AND PURCHASE CARDS

- E.47 The Section 151 Officer is responsible for:
  - a. providing credit cards, debit cards and purchase cards to be used for agreed purposes and to be allocated to nominated members of staff
  - b. prescribing procedures for the use of credit cards, debit cards and purchase cards and the accounting arrangements required to record and monitor expenditure incurred with such cards
- E.48 Purchase Cards/Credit Cards/Debit Cards are an effective method of payment for goods and services of low value and for one off purchases. Executive Directors and Assistant Directors are responsible for the appropriate deployment, management and the security of purchase/credit/debit cards within their service in accordance with the Scheme of Financial Delegation.
- E.49 Purchase Cards/Credit Cards/Debit Cards should only be used for legitimate Council business by the person who has been allocated the card and whose name the card is in.
- E.50 Adequate records must be maintained to allow for the verification and reconciliation of all payments made to the Council's general ledger and bank accounts, and to allow for the proper treatment of VAT.

## IMPREST ACCOUNTS

- E.51 The Section 151 Officer is responsible for providing, in agreed circumstances and where such need is proven to be essential, cash or bank imprest accounts to meet minor or other agreed expenditure. The

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Section 151 Officer is also responsible for defining procedures for operating these accounts.

- E.52 The Chief Executive, Executive Directors and Assistant Directors are responsible for the operation of approved cash and bank imprest accounts in accordance with procedures issued by the Section 151 Officer.
- E.53 Executive Directors and Assistant Directors are responsible for ensuring that where local arrangements are in place:
- a. Schemes of Financial Delegation set out clearly the responsibilities and approval limits of individual officers in respect of these arrangements; and that these are reviewed and updated regularly
  - b. they are operated in accordance with guidance issued and that appropriate management supervision and compliance monitoring is undertaken
  - c. adequate records must be maintained to allow for the verification and reconciliation of all payments made to the Council's general ledger and bank accounts, and to allow for the proper treatment of VAT
  - d. arrangements are being operated for legitimate Council business only
- E.54 Local arrangements may not be used in any circumstances to circumvent either the Council's Contract Procedure Rules or agreed approval and authorisation procedures, nor must they be used for any payments in respect of salaries and wages, travelling or other employment expenses, or payments for work carried out under the Construction Industry Tax Deduction Scheme.

## PAYMENT TO MEMBERS

- E.55 The Section 151 Officer is responsible for paying all allowances to Members.
- E.56 The Section 151 Officer will make payments to any Members entitled to claim allowances on receipt of the proper form, completed and certified in accordance with the approved scheme for allowances.

## FINANCIAL ARRANGEMENTS IN AN EMERGENCY

- E.57 The Chief Executive, or his / her representative acting as Emergency Duty Co-ordinator must be able to incur expenditure immediately in order to carry out the role effectively and may rely on the provisions of

Section 138 of the Local Government as amended by Section 156 of the Local Government and Housing Act 1989 (LGHA 1989). Section 155 of the LGHA 1989 provides for a scheme whereby local authorities may recoup from central government a proportion of agreed expenditure under 'Bellwin Rules'.

E.58 The Section 151 Officer is responsible for:

- a. approving a form of record for all emergency expenditure.
- b. reporting all expenditure to the Cabinet as soon as reasonably practicable.
- c. issuing a single expenditure code for the emergency.

E.59 Those who incur expenditure on the occasion of any Emergency or scaled up incident are responsible for:

- a. taking such steps as are reasonable, bearing in mind the local circumstances, to enable proper accounting for any disbursement to be achieved after the event.
- b. taking such judgments as to what constitutes reasonable controls in light of the scale and the nature of the payments, their urgency and the physical conditions at the time.
- c. ensuring caution is exercised where large scale cash disbursements to third parties are involved
- d. attempting to obtain some documented acknowledgement of receipt.
- e. attempting to utilize cashless methods wherever possible.

E.60 Wherever possible/practicable, the Council's existing procurement framework contracts should be used.

## TAXATION

E.61 It is the responsibility of the Section 151 Officer, in conjunction with Transactional HR, Payroll & Pensions Services to:

- a. complete all Inland Revenue returns regarding PAYE
- b. complete a monthly return of VAT inputs and outputs to HM Revenue and Customs
- c. provide details to HM Revenue and Customs regarding the construction industry tax deduction scheme
- d. maintain up-to-date guidance for Council employees on taxation issues

E.62 It is the responsibility of Executive Directors and Assistant Directors to:

- a. ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations
- b. ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements
- c. ensure that all persons employed by the Council are added to the Council'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
- d. follow the guidance on taxation issued by the Section 151 Officer.

## TRADING ACCOUNTS AND BUSINESS UNITS

E.63 As a general rule, separate trading accounts are required when services are provided to either internal or external clients, on a basis other than a straightforward recharge of full cost. It is the responsibility of the Section 151 Officer to advise on the establishment and operation of trading accounts and business units.

E.64 It is the responsibility of Executive Directors and Assistant Directors to:

- a. consult with the Section 151 Officer and the Monitoring Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- b. observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts
- c. ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units
- d. ensure that each business unit prepares an annual business plan.

## SECTION F - EXTERNAL ARRANGEMENTS

### WHY THIS IS IMPORTANT

F.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders.

### WHAT IS COVERED IN THIS SECTION

F.2 The following aspects of External Arrangements are covered in this section:

- Partnerships
- Bidding for Grant Funding
- Support to Other Organisations
- Sponsorship Arrangements

### PARTNERSHIPS

F.3 Partnerships play a key role in delivering community strategies and contributing to the well-being of the area. They also provide new ways to share risks, access new resources and new and better ways of delivering services.

F.4 The Section 151 will provide guidance for Partnership Arrangements. This will outline officer and partner responsibilities and provides a checklist of all necessary requirements before entering into a partnership, during it and following its cessation.

F.5 Executive Directors and Assistant Directors are responsible for:

- a. Adhering to the guidance issued by the Section 151 Officer before embarking on any partnership agreement, ensuring a risk management appraisal is undertaken and obtaining the appropriate approvals
- b. Ensuring partnerships do not impact adversely on Council services
- c. Providing appropriate information for the statement of accounts
- d. Maintaining all contract document and any associated requirements of the Contract Procedure Rules
- e. Ensuring partners are aware of their obligations with regards to confidentiality, conflicts of interest, communication and financial and contractual responsibilities



- f. Ensuring that financial resources are used efficiently and effectively and that accounting arrangements are satisfactory and maintain the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council

## BIDDING FOR GRANT FUNDING

- F.6 In some circumstances there may be specific grant funds available, where these are aligned with the Council's priorities, accessed through some form of bidding process. The approval process for bidding for grant funding is as follows:
- a. All grant submissions should be approved by the Section 151 Officer and the relevant Assistant Director / Executive Director in advance
  - b. The relevant Cabinet Member / Cabinet Member for Regulatory, Compliance and Corporate Services should be consulted and provide approval to proceed
  - c. If a bid is successful, expenditure can only commence when formal approval for the Supplementary Revenue / Capital Estimate has been received.
- F.7 Any new capital schemes must be approved in line with the requirement for Supplementary Capital Estimates. Officers must ensure that they understand and are aware of the grant conditions attaching to any funding and consider whether the Council's processes and procedures are sufficient to comply with these conditions or whether more detailed processes need to be followed.

## SUPPORT TO OTHER ORGANISATIONS

- F.8 The Cabinet Member for Regulatory Compliance and Corporate Resources will on a periodical basis, agree a policy setting down the approach to be taken to the allocation of grants, donations and other contributions to outside bodies, in consultation with the Section 151 Officer and The Chief Legal and Democratic Services Officer. The Policy would be presented for approval through Cabinet and Council.
- F.9 Grants, donations and contributions will be paid by the Council in accordance with this policy, subject to there being adequate provision in service budgets and the appropriate approvals being sought.

Approval level	Amount
Officers	Up to and including £50,000 (where grant is within approved grant policy)
Cabinet Member	Between £50,000 and £100,000 (where grant is within approved grant policy)
Cabinet	<p>All Grants of £100,000 or more.</p> <p>All grants which do not fall within existing approved grant policy require Cabinet approval.</p>

- F.10 The Grant Funding Protocol sets out further guidance on grant funding, the process for allocation and any conditions that should apply to any grant funding.
- F.11 Executive Directors and Assistant Directors will report on the outcomes achieved through the provision of support to outside bodies on an annual basis to the appropriate Member Group and Cabinet Member, with interim reporting (quarterly reports being the minimum) where the sums involved are in excess of £100,000.

## SPONSORSHIP ARRANGEMENTS

- F.12 Sponsorship arrangements must comply with the Council's Sponsorship Policy and Code of Conduct.
- F.13 All sponsorship arrangements will require a business case to be submitted to the Chief Executive and the Section 151 Officer for approval.
- F.14 The Assistant Director of Corporate Resources and Customer Services (Strategic Support) is responsible for maintaining a register which will include a list of approved sponsors.
- F.15 The following financial thresholds must be adhered to:

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Value	Level of Approval
Up to and including £10,000	Executive Director Cc Assistant Director
In excess of £10,000 and up to and including £50,000	Chief Executive Cc Executive Director and Assistant Director
Over £50,000	Cabinet Cc Executive Director and Assistant Director

F.16 Any sponsorship arrangement over £100k or materially affecting 2 or more wards will need including on the Forward Plan as a key decision.

## ANNEXE

## GLOSSARY OF TERMS / DEFINITIONS

**Appropriation** – Amounts transferred between the Revenue account and revenue or capital reserves.

**Bad Debt** – All debts which are due to the Council will be subject to full recovery, collection and legal procedures as outlined in the Council Corporate Debt Policy & Procedures. However, not all debts may be collectable and therefore it will be appropriate, in certain circumstances, to classify debts as irrecoverable or “bad debts”.

**Balances (Revenue Account)** – The accumulated surplus of income over expenditure. Members may agree that Balances be used to reduce future Council Tax precepts although a minimum level, consistent with prudence and best practice will be maintained. Amounts in excess of that required for day-to-day cash management and to finance working capital can be invested to generate interest income to the Council.

**Block Provisions** – Annual capital allocations made to cover minor schemes with starting values of less than £250,000.

**Business Case Template** – This is a pro forma to be completed for all Capital schemes and all significant Revenue proposals. It will provide details on the expected outcomes falling from the proposed investment and identify how the proposal will meet corporate objectives.

**Capital Approval** – The capital programme provision as amended by any supplementary estimates or virements.

**Capital Expenditure** – Expenditure on the purchase, construction or replacement of capital (fixed) assets or expenditure which adds to the life or value of an existing fixed asset.

**Capital Programme** – The Council’s plan of capital projects and spending over future years. Included in this category are the purchase of land and buildings, the erection of new buildings and works, Highway Improvement schemes and design fees, and the acquisition of vehicles and major items of equipment.

**Capital Project / Scheme** – These terms mean the same thing and are used interchangeably within these Rules. A project/scheme may be separately identified in the capital programme or be an item within a block provision.

**Capital Receipts** – Income received from the sale of capital assets and available, subject to rules laid down by the Government, to finance new capital expenditure or to repay debt.

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All **carry-forwards** (except for Schools) need the approval of the Cabinet upon the presentation of a business case. The Sefton Scheme for Financing Schools identifies the level of balances each maintained school can carry forward without prior permission from the Schools Forum.

**Chief Officers** – Chief Officers are the Chief Executive or any Assistant Director of the Council to whom there has been specific delegation in writing by the Council or the Chief Executive. Chief Officers must operate efficient systems of financial control.

**Contingencies** – Sums set aside to meet either:

the potential costs of activities expected to occur during the year over and above those costs included in Service budgets (pay and price contingency); or

items which are difficult to predict in terms of financial impact or timing (contingency for uncertain items).

**Contract** – An agreement to supply goods, services or works for a price. A contract is normally in writing however a contractual arrangement may, inadvertently be entered into orally.

**Contractor** – Any person or organisation awarded a Contract. This includes any consultant appointed by the Council to provide advice on any project.

**Commissioning Team /Procurement** – The central procurement unit is the department responsible for procurement activity within the Council.

**Council Fund** – The Council's main revenue fund to which all revenue receipts are credited, and from which revenue liabilities are discharged. The movement on the fund in the year represents the excess of income over expenditure within the Consolidated Revenue Account. The level of balances held is based on the Council's assessment of the level of risk and uncertainty and the potential call on such reserves.

**Debt Write-Off** – Realising the cost of debt which is considered to be "bad" (unrecoverable) by writing it off against the revenue account or bad debt provision.

**Earmarked Reserves** – These reserves represent monies set aside that can only be used for a specific use or purpose.

**Financial Year** – The Council's accounting period covers the 12 months from April 1 to March 31.

**Forward Plan** – As defined in the Constitution.

**Key Decision** – As defined in the Constitution.

**Leases** – Agreements covering the hire/rental of equipment or buildings, generally for a specified period of time and at a specified rate.

**Option Appraisal/Business Case** – This is required for all Capital schemes and all significant revenue proposals and takes the form of a Business Case Template. This will be used to assess whether the scheme is affordable and deliverable. Consequences to the Service are considered and evaluated and it will also provide a basis for monitoring and reporting progress. In the case of revenue proposals, it will also take into account the risk and impact on users.

**Policy and Expenditure Planning** – The Council's annual cycle of planning for the medium and short-term future, aimed at achieving optimal allocation of available resources.

**Policy and Expenditure Proposals** – Proposals, including new policies, which have resource implications and will be subject to appraisal by Members, Executive Leadership Team and consultees before inclusion in annual budget preparation.

**Provision** – An amount set aside by the Authority for any liabilities of uncertain amount or timing that have been incurred.

The main category is estimates of liabilities or losses already incurred but whose exact amount will be determined in the future (e.g. bad debts, obsolete stock). See also Capital Provision and Provision for Doubtful Debt.

**Provision for Doubtful Debt** – An allocation of funds set aside from Service revenue budgets to cover amounts which may not be recoverable from debtors.

**Prudential Borrowing Limits** – The maximum amount of borrowing that the Council can enter into at any one point in time during the year. This limit is set by Council prior to the start of the year to which it relates and cannot be breached under any circumstances.

**Revenue Account** – The Account which sets out the Council's income and expenditure for the year for non-capital spending.

**Revenue Expenditure** – Spending on the day-to-day running expenses of the Council. It includes expenditure on employees, premises, transport and supplies and services.

**Ring Fencing** – Certain budgets agreed by the Section 151 Officer are "ring-fenced". This means that under-spends on these budgets will return to balances and overspends will be met centrally. This is to reflect the fact that certain items of expenditure are either demand-led or so significantly influenced by extraneous factors that they are beyond the direct control of managers. Ring-fenced budgets include planning levies, external audit fees and election expenses.

**Schemes of Financial Delegation** – Schemes of Financial Delegation are the documents that set out, for each Service, all authorisations and approval limits as delegated by the Executive Directors and Assistant Directors to Authorised Officers within their Service. Executive Directors and Assistant Directors are responsible for maintaining up to date and

accurate Schemes of Financial Delegation.

**Section 106 Agreement** - Planning obligations, also known as Section 106 agreements (based on that section of The 1990 Town & Country Planning Act) are private agreements made between local authorities and developers and can be attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms. This will set out a number of on-site and/or financial obligations that are necessary to make the proposal acceptable in planning terms.

**Service Plan** – A plan which outlines measurable Service aims for the year ahead, encompassing both core purpose and specific key objectives for any given year. The Plan will consider both inputs and outputs.

**“Starts value”** – Represents the full value of the Council’s contribution to a Capital Scheme irrespective of the timing of the payments.

**Sponsorship** is defined as - “An agreement between the Council and the sponsor, where the Council receives either money or a benefit in kind for an event, campaign or initiative from an organisation or individual which in turn gains publicity or other benefits”.

**Supplementary Capital Estimate (SCE)** – Additional resources approved by Members during the financial year with funds either provided by a third-party (e.g. developer contributions, receipts, government grant), by the use of Council reserves or from the Revenue budget.

**Supplementary Revenue Estimate (SRE)** – An approved increase to a Service revenue budget during the financial year, funded centrally from reserves, contingencies or external funding sources such as grants or partner contributions.

**Third Party Fund(s)** – Funds provided by outside bodies or individuals in support of Council activities, establishments or clients. Can sometimes be known as trust funds.

**Underspend** – An underspend results when the net costs of a budget holder are lower than the net budget for the year.

**Virement** – A Revenue virement is a transfer of amounts from one budget heading to another within, or between, Executive Directors / Assistant Directors. Capital virements cover any changes to Capital budgets funded from within the existing Capital programme.



# Agenda Item 8

<b>Report to:</b>	Audit and Governance Committee	<b>Date of Meeting:</b>	Wednesday 13 December 2023
<b>Subject:</b>	Information Governance and Compliance – internal guidance and policies		
<b>Report of:</b>	Executive Director of Corporate Resources and Customer Services	<b>Wards Affected:</b>	(All Wards);
<b>Portfolio:</b>			
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

## Summary:

The report seeks the approval of Members regarding the revised internal information governance policy documents attached.

## Recommendation(s):

- (1) To note the contents of the report.
- (2) Members be recommended to approve the revised internal policy documents.

## Reasons for the Recommendation(s):

The attached policies have been recently amended following an exercise to review all information governance policies available to employees and Members.

## Alternative Options Considered and Rejected: (including any Risk Implications)

None.

## What will it cost and how will it be financed?

### (A) Revenue Costs

N/A

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## (B) Capital Costs

N/A

### Implications of the Proposals:

<b>Resource Implications (Financial, IT, Staffing and Assets):</b>  There are no resource implications.								
<b>Legal Implications:</b> <ul style="list-style-type: none"><li>• The Freedom of Information Act 2000</li><li>• The Environmental Information Regulations 2004</li><li>• The UK General Data Protection Regulation</li><li>• The Data Protection Act 2018</li></ul>								
<b>Equality Implications:</b>  There are no equality implications.								
<b>Impact on Children and Young People: No</b>								
<b>Climate Emergency Implications:</b>  The recommendations within this report will <table border="1"><tr><td>Have a positive impact</td><td>No</td></tr><tr><td>Have a neutral impact</td><td>Yes</td></tr><tr><td>Have a negative impact</td><td>No</td></tr><tr><td>The Author has undertaken the Climate Emergency training for report authors</td><td>Yes</td></tr></table> <p>Neutral impact. The content of this report is to seek approval from Committee members on amendments to a small number of information governance policies. It does not change the requirement for staff to travel, nor impact upon energy consumption, the amount of water used nor changes green spaces, so has the same impact as we currently do now. It has no impact upon the environment for the communities and stakeholders of Sefton.</p>	Have a positive impact	No	Have a neutral impact	Yes	Have a negative impact	No	The Author has undertaken the Climate Emergency training for report authors	Yes
Have a positive impact	No							
Have a neutral impact	Yes							
Have a negative impact	No							
The Author has undertaken the Climate Emergency training for report authors	Yes							

### Contribution to the Council's Core Purpose:

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: Not applicable
Commission, broker and provide core services: To ensure the provision of lawful data

processing and handling of information when providing services
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener: Not applicable

**What consultations have taken place on the proposals and when?**

**(A) Internal Consultations**

The Executive Director of Corporate Resources and Customer Services (FD.7437/23) and the Chief Legal and Democratic Officer (LD.5537/23) have been consulted and any comments have been incorporated into the report.

**(B) External Consultations**

None.

<b>Contact Officer:</b>	Catherine Larkin
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**Appendices:**

There are 3 appendices to this report.

**Background Papers:**

There are no background papers available for inspection.

**1. Introduction/Background**

The attached 3 policy documents - the Information Risk policy, Guidance on disclosing information to elected representatives and Freedom of Information guidance have all been recently reviewed as part of an exercise to review and amend where appropriate all the Council's information governance policies to staff and Members.

# Agenda Item 8

## **Information Risk policy**

This Committee has recently endorsed a Risk Appetite Framework (RAF) for the Council which sets out the level of risk that members have decided is acceptable for the organisation and gives a framework within which officers can make proposals and take delegated decisions. The policy document has been updated to make reference to the existence of the RAF.

## **Guidance on disclosure of information to elected members**

This short policy document has had minor revisions to reference the UK GDPR and revised document classification scheme.

## **Freedom of Information policy and guidance**

This policy was first approved by Audit and Governance Committee in June 2015. The document has been amended to reflect the UK GDPR, changes in internal processes, the Council's case management system for handling information requests and revised guidance from the Information Commissioner's Office.

## **2. Recommendation**

Members are asked to approve the policies and their latest revisions.

# Freedom of Information Policy & Guidance

September 2023

## Summary Sheet

### Document Information

<b>Protective marking</b> (Official /Official-Sensitive-Personal/Official-Sensitive-Commercial/Official-Sensitive-Confidential)	Official
<b>Ref</b>	IG Policy 1.1
<b>Document purpose</b>	Policy and guidance on handling Freedom of Information requests
<b>Document status</b> (Draft / Active)	Active
<b>Partners</b> (If applicable)	N/A
<b>Date document came into force</b>	2005
<b>Date of next review</b>	July 2025
<b>Owner</b> (Service Area)	Sefton Council – Information Governance
<b>Location of original</b> (Owner job title / contact details)	Data Protection Officer – as above.
<b>Authorised by</b> (Committee/Cabinet)	Information Management Group October 2023 Audit & Governance Committee (tbc)

### Document History

Version	Date	Author	Amendments / Comments
1.0	2005	Richard Roscoe	Initial Draft
2.0	June 2015	Ben Heal	Document updated
3.0	September 2023	Catherine Larkin	Document updated – reference to UK GDPR, changes to internal policy, use of iCasework and revised ICO guidance

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## 1 Background and Policy

### 1.1 Background

The Freedom of Information Act 2000 (FOIA) came into force on 1<sup>st</sup> January 2005. By granting a general right of access to records held by public Authorities it encouraged an attitude of openness within those Authorities. It enables the public to scrutinise their decisions and working practices. The key features of the Act are:

- Every Council employee has a duty to provide advice and assistance to requesters requesting information.
- The public has a general right of access to all recorded information held by the Council and some Independent Contractors. Subject to exemptions set out in the Act a requester has the right to know whether a record exists, and the right to a copy of that record supplied in a format of their choice.
- Every Council must adopt and maintain a Publication Scheme, listing what the types of records it chooses to publish, how to obtain them, and whether there is a charge involved.
- The Information Commissioner's Office oversees regulation and compliance with the Act.

### 1.2 Scope of this policy

This policy relates to all recorded information held by the Council in any format.

### 1.3 Policy statement

This Council supports the principle that openness should be the norm in public life. The Council respects the right to access information and seeks to ensure that the exemptions outlined in the Freedom of Information Act are applied appropriately and consistently.

This Council will continue to respect the individual's right to privacy and will take steps to ensure that personal information continues to be protected and is accessed only under the terms of the UK GDPR and Data Protection Act 2018.

This Council will handle requests for Environmental Information under the terms of the Environmental Information Regulations 2004.

This Council will ensure that all departments, employees and contractual staff are made aware of their responsibilities and are provided with the resources, guidelines and expert advice necessary to maintain compliance with the Act in their area.

The Council recognises that effective Information Management is essential in cost-effectively handling requests for information and for the long-term stability and security of the Council. The Information Management and Governance Executive is accountable for the Council's arrangements for information management, control,

compliance, and prevention of legal failure, which are a set of critical business activities fundamental to good public service and the Council's overall vision.

## 2 What Sefton staff need to know

### 2.1 The public right of access to records

In particular the requester has the right to:

- Be informed in writing whether the Council holds the information requested, this is the duty to confirm or deny, and
- If the Council holds that information, have it communicated to them, where possible in a format of their choice.

The Act requires that requests are responded to within 20 working days.

**The Act does not require authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.**

### 2.2 Advice and Assistance

Under section 16 of the Act every employee has a duty to provide advice and assistance to requesters and would-be requesters. They must also:

- Inform the requester of the progress of their request
- Explain the basis for any charges or fees levied or exemptions applied
- Suggest routes through which the requester may wish to access information, including directing them to other public authorities
- Identify independent sources of help for requesters
- Direct requesters to the complaints procedure and the Office of the Information Commissioner if they are dissatisfied with the outcome or handling of their request. All letter templates in the iCasework system contain this information.

### 2.3 Publication Scheme

As well as responding to requests for information, public authorities must publish information proactively. The Freedom of Information Act requires every public authority to have a publication scheme and to publish information covered by the scheme.

Each Service Area is responsible for ensuring that their items in the Publication Scheme are kept up to date. It is available on the Sefton Council website, at the link below:

[Freedom of Information \(sefton.gov.uk\)](http://sefton.gov.uk)

## 2.4 Records Management

This Council recognises that the key to efficient and cost-effective handling of its obligations under the FOIA is effective records management. To this end it has implemented a Records Management Policy and Retention and Disposal Guidelines. Each department is responsible for ensuring that any documents that have exceeded their retention date will be disposed of securely.

## 2.5 Roles and Responsibilities

It is essential that all Sefton Staff are aware of their responsibilities under the Act.

### 2.5.1 Corporate versus Departmental responsibilities

It is the responsibility of Executive Directors and Assistant Directors to ensure that their departments adapt their working practices where necessary to comply with the Act.

### 2.5.2 Chief Executive

The Chief Executive will:

- Champion good information management at the top level,
- Provide support and approval for the Freedom of Information policy and any related initiatives across the Council.
- Ensure that Sefton Council complies with the Act.

### 2.5.3 Information Management Executive Group

This group are responsible for steering the Council's information management strategy.

### 2.5.4 Sefton Employees

Individual employees will be responsible for ensuring that:

- They provide advice and assistance to requesters and would-be requesters.
- They handle all requests in compliance with the Council's policy.
- Any non-compliance is reported immediately to their manager.

Individual employees should be aware that they may be personally held legally liable for if they themselves knowingly alter or destroy records in any way to prevent disclosure in contravention of the Act. (Section 77 of the FOIA).

### 2.5.5 Information Asset Owners

Information Asset Owners (IAOs) provide first line advice on information management in their department. These are not necessarily information

management experts. Their role is to provide staff with basic advice and to assess each case for risks, and to refer them to their management.

### **2.5.6 Advice on exemptions**

Advice on the application of exemptions and the general practicalities of handling information requests, can be obtained from the Council's Information Management and Governance Lead, Information Governance Assistant and Corporate Legal Services. If you rely on an exemption to withhold information you must seek approval of your draft response prior to sending. The iCasework system is configured in such a way so that users can request approval of their draft response from the core group of approvers.

### **2.5.7 Requests from organisations, researchers and media outlets**

Any request received from an organisation, whatdotheyknow.com, a University, a person conducting research or any form of media outlet must be approved by the Communications team prior to disclosure. Whilst any response made under the FOIA is a disclosure into the public domain and to be considered a disclosure to the world at large, it is more common to see responses made to requests from those referenced above, to be published. If you are unsure about whether or not your response requires approval, check with the Communications team first.

The iCasework system is configured in such a way so that users can request approval of their draft response from the Communications team.

### **2.5.8 Complaints and Internal reviews**

If a requester is dissatisfied with the way in which their request has been handled or they are unhappy with the Council's reliance on an exemption to withhold information, they may complain and seek an internal review of the original decision. All letter templates in the iCasework system contain information regarding how to request a review and who to contact.

A request for review should be made within 40 working days from the date the Council issued the initial response to a request. All letter templates inform applicants of this. Public authorities are not obliged to accept internal reviews once 40 working days have lapsed.

Requests for internal review should be acknowledged and the applicant informed of the target date for responding. This should normally be within 20 working days of receipt. There is an internal review process integrated in the iCasework system.

Following an internal review, the requester then has the right to seek a decision from the Information Commissioner's Office. Again, all letter templates within the system inform individuals of this right.

## 3 Practical Guidelines for Departments

### 3.1 What is a Freedom of Information Request?

The Act covers any written request for information. Requests cannot be made verbally, unlike EIR requests. It can be addressed to anyone in the Council. For a request to be valid, it must give the name of the requester, an address for correspondence and a description of the information requested. There is no need for the request to refer to the Freedom of Information Act in any way.

You have two duties when responding to requests for information: to let the requester know whether you hold the information, and to provide the information. If you are giving out all the information you hold, this will fulfil both these duties. If you are refusing all or part of the request, you will **normally** still have to confirm whether you hold (further) information.

In some circumstances, you can refuse to confirm or deny whether you hold any information. For example, if a requester asks you about evidence of criminal activity by a named individual, saying whether you hold such information could be unfair to the individual and could prejudice any police investigation. This is known as a 'neither confirm nor deny' (NCND) response. If you are unsure whether or not an NCND response is required, seek advice.

You cannot withhold information unless you have a specific exemption under the Act. Any recorded information held by the Council may fall within the scope of a request. Please remember - there is no exemption for embarrassment.

### 3.2 Good record management makes responding easier

If you do not hold the information requested then you cannot be required to provide it to a requester. You are still obliged to inform the requester that you do not hold the requested information.

Sefton Council has a set of guidelines which tell you how long you are obliged to keep documents in your department. They are called the Guidelines for Retention and Disposal and can be accessed on the Intranet at the following link:

[Records Management \(smbc.loc\)](#)

By identifying information you no longer need, and disposing of it legally and properly you can reduce the volume of information you have to search and collate.

**Caution: Never delete documents that you are legally obliged to retain.**

### 3.2.1 Updating the Publication Scheme

It is important to regularly update your section of the Council's Publication Scheme and consider what information you can proactively make public on the Council's website. In accordance with guidance issued by the Information Commissioner's Office:

*'The Act is designed to increase transparency. Members of the public should be able to routinely access information that is in the public interest and is safe to disclose. Also, without the publication scheme, members of the public may not know what information you have available.*

*The publication scheme covers information you have already decided you can give out. People should be able to access this information directly on the web, or receive it promptly and automatically whenever they ask'.*

### 3.3 Requests for access to individual's own personal information are not covered by the Act

The FOIA does not give people access to their own personal information. Any such requests must be handled under UK data protection legislation (UK GDPR and Data Protection Act 2018) and must not be handled as FOI requests. Guidance on subject access requests can be found on the Intranet at the following link:

[Subject Access Requests \(smbc.loc\)](#)

### 3.4 Requests for Environmental Information are not covered by the Act

Requests for environmental information must be handled under the Environmental Information Regulations 2004. The requirements are very similar to FOIA but requests under EIR can also be made verbally. Guidance on handling EIR requests can be found on the Intranet at the following link:

[Environmental Information requests \(smbc.loc\)](#)

#### 3.4.1 How can we track FOI requests?

The Council has a corporate system for the handling of all FOI requests it receives. The system is called 'iCasework'. Requests for an account need to be submitted to the ICT Client team. A short training course providing an overview of the system is available on the 'MeLearning' portal.

## **3.4.2 What if my department doesn't have enough resources?**

Lack of resources does not excuse a department from its obligations and if you suspect that you may fail to comply with a request within 20 working days this must be raised with your manager immediately.

## **3.4.3 What is a 'working day'?**

A working day means Monday to Friday, excluding Bank Holidays.

## **3.4.4 When does the 20-working day clock start?**

In accordance with guidance from the ICO, we count the working day after the request was received by the Council as the first of the 20 working days. In the case of emails containing requests, this is the working day following the day the email was delivered to your mailbox. This includes e-mails received outside of working hours e.g. 8.30 pm in the evening. Such a request would be logged as being received the following morning. Requests received on a Saturday or Sunday should be logged as being received on the next available working day. Bank Holidays are not 'working days' so requests received on Bank Holidays should also be logged as received on the next available working day.

However, the 4 days of unpaid leave during the Council's period of cost saving measures during December each year, are still working days for the purposes of the FOIA.

If you are the designated response handler for Freedom of Information requests in your team, you must ensure that when going on leave, your 'Out of Office' message advises individuals who they should contact in your absence if they have sent an FOI request. You can also delegate access within the iCasework system.

## **3.4.5 Can I stop the clock to clarify the FOI request?**

Yes, if you need more information to identify and locate the information requested, the clock can be stopped until clarification has been received from the requester.

## **3.4.6 Can we charge for information?**

Guidance from the ICO confirms that yes, a charge can be made in certain cases. See below:

'The Act does not allow you to charge a flat fee but you can recover your communication costs, such as for photocopying, printing and postage. You cannot normally charge for any other costs, such as for staff time spent searching for information, unless other relevant legislation authorises this.  
how much.



If you wish to charge a fee, you should send the requester a fees notice. You do not have to send the information until you have received the fee. The time limit for complying with the request excludes the time spent waiting for the fee to be paid. In other words, you should issue the fees notice within the standard time for compliance. Once you have received the fee, you should send out the information within the time remaining'. Source – [Guide to freedom of information | ICO](#)

If the cost of complying with the request would exceed the cost limit referred to in the legislation, you can offer to supply the information and recover your full costs (including staff time), rather than refusing the request. The cost limit for Local Authorities is £450 (calculated on the basis of 18 hours of work at £25 per hour).

### 3.4.7 Can I delay a response?

Public authorities may exceed the 20-working day deadline if information falls within the scope of a qualified exemption and additional time is required to consider the public interest test. This is set out in Section 10(3) of the Act and is normally described as a public interest test extension.

An extension is permitted “*until such time as is reasonable in the circumstances*”, taking account, for example, of where the information is especially complex or voluminous, or where a public authority needs to consult third parties.

In general, it is best practice for an extension **to be for no more than a further 20 working days** although this will depend on the circumstances of the case, including the complexity and volume of the material, and in some circumstances a longer extension may be appropriate.

Where you decide a public interest test extension is required, you should issue a refusal notice within 20 working days, stating which exemption(s) you are relying on, and why. The notice must explain that more time is required to consider the public interest test and provide a likely estimate of the date on which they will receive their response.

### 3.4.8 When can I refuse to release information (exemptions)?

A request may be refused if any of the following conditions apply:

- The information requested is exempt under the Act (see exemptions below).
- A fees notice or charges has not been paid within 3 months.
- The cost of compliance exceeds £450 (based on 18 hours of work at £25 per hour).
- The request can be demonstrated to be vexatious or repeated.

The requester must be informed in writing of the decision to withhold within 20

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working days of the request and will be told the following:

- The exemption(s) that apply.
- The justification for the use of the exemption(s).
- Details of the complaints procedure (internal review process) if they are not satisfied with the outcome.

If the exemption is absolute, then the Council may be exempt from the duty to confirm or deny the existence of the record. In these circumstances, the requester will be informed within 20 working days of the following:

- The fact that the Council is exempt from the duty to confirm or deny.
- Which exemption was applied?
- Why the exemption was applied.

The following is a brief outline of the exemptions most likely to be available to the Council. See section 2.5.6 regarding obtaining advice on the application of exemptions.

## 3.4.9 What are the ‘absolute’ exemptions?

An absolute exemption means that the Council is allowed to withhold this information without having to consider the Public Interest. In some cases the Council does not have even to confirm or deny holding this information. The main ones used by a Local Authority are:

Information is reasonably accessible to applicant by other means (section 21)	This exemption applies if the information requested is already accessible to the requester. You could apply this if you know that the requester already has the information, or if it is already in the public domain e.g. on a publicly accessible website.  You must take into account any information the requester gives you about their circumstances. For example, the requester does not have access to the internet at home or may find it difficult to go to their local library. Therefore, information available only on the internet would not be reasonably accessible to them.
Court records, etc. (section 32)	This exemption applies to court records held by any authority (though courts themselves are not covered by the Act).  To claim this exemption, you must hold the information only because it was originally in a document created or used as part of legal proceedings, including an inquiry, inquest or arbitration.  The type of document is relevant, as well as the content and purpose of the information they hold.

<p>Personal information (section 40)</p>	<p><b>Section 40(1) – personal information of the requester</b>                  This exemption confirms that you should treat any request made by an individual for their own personal data as a subject access request under the UK GDPR.</p> <p><b>Section 40(2) – data protection</b>                  This exemption covers the personal data of third parties (anyone other than the requester) where complying with the request would breach any of the principles in the UK GDPR. If you wish to rely on this exemption, you need to refer to the UK GDPR as the data protection principles are not set out in the Freedom of Information Act.</p> <p>This exemption can only apply to information about people who are living; <b>you cannot use it to protect information about people who have died.</b></p>
<p>Information provided in confidence (section 41)</p>	<p>This exemption applies if the following two conditions are satisfied:</p> <ul style="list-style-type: none"> <li>- you received the information from someone else; and</li> <li>- complying with the request would be a breach of confidence that is actionable</li> </ul>
<p>Prohibitions on disclosure (section 44)</p>	<p>You can apply this exemption if complying with a request for information:                  is not permitted by law or would constitute contempt of court.</p>

## 3.4.10 The Public Interest Test and the ‘Qualified’ Exemptions.

The rest of the exemptions are known as qualified exemptions. This means that before deciding whether to withhold information under an exemption, you must consider the public interest arguments. This balancing exercise is usually called the public interest test (PIT). The Act requires you to disclose information unless there is good reason not to, so the exemption can only be maintained (upheld) if the public interest in doing so outweighs the public interest in disclosure.

<p>Information intended for future publication (section 22)</p>	<p>This exemption applies if, when you receive a request for information, you are preparing the material and definitely intend for it to be published; and it is reasonable not to disclose it until then. You do not need to have identified a publication date. This exemption does not necessarily apply to all draft materials or background research. It will only apply to the material you intend to be published. You do not have to confirm whether you hold the information requested if doing so would reveal the content of the information.</p>
<p>The economy (section 29)</p>	<p>The economic interests exemption protects information that would damage the economy of the UK as a whole or a regional or local economy. By referring to the "economic interests of the UK or any part of it", the exemption seeks to protect communal interests rather than those of the individual. It is concerned with information that would damage the economy of the UK as a whole or a regional or local economy.</p> <p>Section 29(2) removes the duty to confirm or deny information about the economy if doing so would, or would be likely to, damage economic or financial interests.</p>
<p>Investigations and proceedings conducted by public authorities (section 30)</p>	<p>The section 30 exemption applies to a specific category of information that a public authority currently holds or has ever held for the purposes of criminal investigations. It also applies to information obtained in certain other types of investigations, if it relates to obtaining information from confidential sources.</p>

<p>Law enforcement (section 31)</p>	<p>When information does not fall under either of these headings, but disclosure could still prejudice law enforcement, section 31 is the relevant exemption.</p> <p>Section 31 only applies to information that does not fall into the categories in section 30. Section 31 applies where complying with the request would prejudice or would be likely to prejudice various law enforcement purposes (listed in the Act) including preventing crime, administering justice, and collecting tax. It also protects certain other regulatory functions, for example those relating to health and safety and charity administration.</p>
<p>Prejudice to effective conduct of public affairs (section 36)</p>	<p>Section 36 differs from all other prejudice exemptions in that the judgement about prejudice must be made by the legally authorised qualified person for the Council (the Chief Executive). If you have not obtained the qualified person's opinion, then you cannot rely on this exemption.</p>
<p>Health and safety (section 38)</p>	<p>You can apply the section 38 exemption if complying with the request would or would be likely to endanger anyone's physical or mental health or safety. In deciding whether you can apply this exemption, you should use the same test as you would for prejudice. This exemption is qualified by the public interest test.</p>
<p>Environmental Information (section 39)</p>	<p>You should deal with any request that falls within the scope of the Environmental Information Regulations 2004 under those Regulations. This exemption confirms that, in practice, you do not also need to consider such requests under the Freedom of Information Act.</p>
<p>Personal Information concerning a third party (section 40(2))</p>	<p>This exemption covers the personal data of third parties (anyone other than the requester) where complying with the request would breach any of the principles in the UK GDPR.</p>
<p>Legal professional privilege (section 42)</p>	<p>This exemption applies whenever complying with a request would reveal information that is subject to 'legal professional privilege' (LPP). LPP protects information shared between a client and their professional legal advisor (solicitor or barrister, including in-house lawyers) for the purposes of obtaining legal advice or for on-going or proposed legal action.</p>

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Commercial interests (section 43)	This exemption covers two situations: <ul style="list-style-type: none"><li>- when information constitutes a trade secret (such as the recipe for a branded product); or</li><li>- when complying with the request would prejudice or would be likely to prejudice someone's commercial interests. This includes the Council's own commercial interests.</li></ul>
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## 3.4.11 Preparing and sending the response

All FOIA requests should be logged, acknowledged and responded to using the iCasework case management system.

Requesters have the right to express a preference regarding the means that the requested information is communicated to them, for example, to receive it electronically or as a hard copy letter. Some may attach templates and spreadsheets to their request and ask you to complete them by way of response.

Great care must be taken when providing the requested information in an attachment, particularly in Excel spreadsheets. It is very easy for a data breach to occur as a result of not removing personal data from a workbook. For example, if you use Microsoft Excel to summarise a dataset, via a Pivot table or equivalent, remember to copy and paste 'special' the table, then delete the underlying dataset used to produce the summary. If a format has not been specified, convert the document to PDF format prior to disclosing.

If you are unsure as to what you need to do when preparing data for disclosure, seek advice first from the Council's Information Management and Governance Lead or Information Governance Assistant.

## 3.4.12 Legal Liabilities

Employees may be personally legally liable for their actions if they alter, deface, block, erase, destroy or conceal information, or any part of information, held by the Council with the intention of preventing the disclosure of information, which the applicant would have been entitled to. It is a criminal offence under section 77 of the FOIA.

## 4 Glossary of FOIA Terms

<b>Environmental Information</b>	Information related to the environment. This is governed principally by the Environmental Information Regulations 2004.
<b>Exemption</b>	A legally acceptable reason for refusing to release information. All available exemptions are set out in the Act.
<b>Fees</b>	The money that can be charged by the Council for processing and providing information for a requester.
<b>Information</b>	See record
<b>Information Commissioner's Office (ICO)</b>	The ICO is the UK's independent body set up to uphold information rights.
<b>Personal Information</b>	Information about an identifiable living individual. Access to this is governed principally by the UK GDPR and Data Protection Act.
<b>Publication Scheme</b>	A website and paper-based list of all the records that the Council publishes, how they can be obtained, and whether there is a charge involved.
<b>Recipient</b>	The person to whom the information will be sent
<b>Record</b>	Any item of information recorded and held by the Council in any format. This includes electronic files, paper, text and images.
<b>Request</b>	A written request to a department for information by e-mail, letter or social media.
<b>Request handler</b>	The person responsible for tracking an FOI request and ensuring it is completed on time.
<b>Request Recipient</b>	The person to whom the original request is directed. Email or Written.
<b>Requester</b>	Any person making a written request for information from the Council. Also known as the 'applicant'.

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# Information Risk Policy

September 2023

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## Summary Sheet

### Document Information

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<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Notes on revisions</b>
1.0	November 2014	Ben Heal DPO who revised document purchased from Act Now IG consultancy.	On ICO advice to be taken to full Cabinet for ratification.
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3.0	September 2023	Catherine Larkin DPO	Update - Risk Appetite Framework

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## 1 Introduction

This policy sets out a formal information risk management programme in Sefton Council. Responsibility for identifying, reporting, managing and mitigating information risk is specifically allocated as part of this policy.

Sefton Council is required to introduce and embed information risk management into key controls and approval processes of all major business processes and functions.

This policy seeks to ensure that the risks to information are recognised as part of that process. This policy complements Sefton Council's existing Corporate Risk Management Strategy and Policy and does not supersede them.

A copy of the Council's Corporate Risk Policy and Risk Management Handbook can be found at the following link:

<http://intranet.smbc.loc/our-council/risk-and-resilience.aspx>

The Corporate Risk register identifies, assesses and records any key risks associated with information compliance to ensure that any risk that prevents or compromises the achievement of the Council's aims and objectives are managed and adequately monitored.

## 2 Purpose

- As far as possible, protect data subjects, Sefton Council and its staff from information risks where the likelihood of occurrence and the consequences are significant;
- Comply with Sefton Council's obligations under the UK General Data Protection Regulation and Data Protection Act 2018, especially the need to put appropriate technical and organisational measures in place to prevent loss, theft or damage to data and to meet the principles of storage limitation, data minimisation and accuracy.
- Provide a risk management framework in which information risks are identified, reviewed and mitigated wherever possible;
- Encourage a sense of local responsibility for the information under individual service control
- Encourage pro-active rather than reactive risk management

## 3 Definitions

Key definitions are:

Risk: the chance of something happening, which will have an impact upon objectives. It is measured in terms of consequence and likelihood.

**Consequence:** the outcome of an event or situation, i.e. a loss, injury, disadvantage or gain. There may be a range of possible outcomes associated with an event.

**Likelihood:** a qualitative description or synonym for probability or frequency.

**Risk Assessment:** the overall process of risk analysis and risk evaluation.

**Risk Management:** the culture, processes and structures that are directed towards the effective management of potential opportunities and adverse effects.

**Risk Treatment:** selection and implementation of appropriate options for dealing with risk. Conceptually, treatment options will involve one or a combination of the following five strategies:

- Avoid the risk
- Reduce the likelihood of occurrence
- Reduce the consequences of occurrence
- Transfer the risk
- Retain/accept the risk

**Risk Management Process:** The systematic application of management policies, procedures and practices to the tasks of establishing the context, identifying, analysing, evaluating, treating, monitoring and communicating risk.

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## 4 Responsibilities for Information Risk

### 4.1 Chief Executive

The Chief Executive has delegated responsibility for the oversight and implementation of information risk management to the role of Senior Information Risk Owner (SIRO) for Sefton Council.

### 4.2 SIRO (Senior ICT and Digital Manager)

The SIRO is responsible for coordinating the development and maintenance of information risk management policies, procedures and standards for Sefton Council. It is their role to:

- Oversee the development and implementation of this policy and a strategy for implementing the policy
- Take ownership of risk assessment process for information risk including review of risk assessments carried out on Information Assets
- Review and agree action in respect of identified information risks.
- Ensure that the Sefton Council's approach to information risk is effective in terms of resource, commitment and execution and that this is communicated to all staff
- Provide a focal point for the resolution and/or discussion of information risk issues
- Ensure executive management is adequately briefed on information risk issues.

### 4.3 Information Security leads

The Senior Information Risk Owner (SIRO) and Information Asset Owners (IAO) are responsible for the identification, delivery and management of an information risk management programme to address and manage risks to Sefton Council's Information Assets. The Council's main collective decision-making forum is the Information Management and Governance Executive Group, which is also the 'oversight' group providing direction and guidance across the Council for data protection and information governance activities.

### 4.4 Information Asset Owners (IAO)

The Information Asset Owner (IAO) is a senior manager within a specific department or service area of the Council. They are a manager who is the nominated owner for one or more identified information assets of the department or service area. Sefton Council's Information Asset Owners will be required to:

- Ensure the confidentiality, integrity, and availability of all information that their system processes and protect against any anticipated threats or hazards to the security or integrity of such information.
- Undertake information risk assessments on all information assets where they have been assigned 'ownership', following guidance from the Information Security lead on assessment method, format, content, and frequency.

Further information can be found on the Intranet at the link below, along with a list of all the current Information Asset Owners and Information Asset Administrators:

<http://intranet.smbc.loc/our-council/data-protection-information-handling/information-asset-owners.aspx>

## 4.5 All Staff

Everyone has a role in the effective management of risk, including information risk. All staff must actively participate in the process of information risk management by:

- identifying and reporting potential information risks in their area
- contributing to the implementation of appropriate treatment actions
- handling and sharing information responsibly at all times

All employees and Members are required to undergo mandatory information compliance training as part of their Induction when they start work for the Council and to sit refresher training each year. An assessment must be completed at the end of the training to test staff understanding and includes a minimum pass mark. Staff must also complete feedback questions which are provided to the Information Management and Governance Executive group each month.

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## 5 Information Risk Management Process

### 5.1 Information Assets

The National Archives (TNA) defines information assets as:

*'An information asset is a body of information, defined and managed as a single unit so it can be understood, shared, protected and exploited efficiently. Information assets have recognisable and manageable value, risk, content and lifecycles'.*

Source: Information Asset Factsheet – The National Archives

**It is a key principle of data protection law that personal data should not be retained for longer than is necessary – this is known as the 'storage limitation' principle.** However, management of all information assets, not just personal data is vital, so we reduce the risk of holding information, which is irrelevant, excessive, inaccurate or out of date.

Drawing upon the TNA's 'Disposal of records' guide produced in support of the good practice recommendations in the Code of Practice on Records Management issued by the Lord Chancellor under section 46 of the Freedom of Information Act 2000, we are guided to consider the value of our records, in terms of organisational and archival:

#### **Organisational value**

Organisational value focuses on the organisation's needs and obligations and on records as information assets. It is about value for accountability, legal or reference purposes and includes protection of the legal and other rights of the organisation and those with whom it deals, and compliance with whatever regulatory framework applies.

#### **Archival value**

Archival value has a wider and more long-term focus. Archival value is about value for corporate memory purposes and for historical or cultural purposes. Often the records which need to be kept in the long term because of their organisational value are also the records with archival value.

TNA sets out the following questions to assess whether something is an information asset:

- Does it have a value to the organisation? Will it cost money to re-acquire the information? Would there be legal, reputational or financial repercussions if you could not produce the information on request? Would it have an effect on operational efficiency if you could not access the information easily? Would there be consequences of not having this information? Is there a risk associated with the information?



- Is there a risk of losing the information? A risk that the information is not accurate? A risk that someone may try to tamper with it? A risk arising from inappropriate disclosure?
- Does the group of information have a specific content? Do you understand what it is and what it is for? Does it include all the context associated with the information?
- Does the information have a manageable lifecycle? Were all the components created for a common purpose? Will they be disposed of in the same way and according to the same rules?

Information assets come in many shapes and forms. The following list is therefore illustrative. It is generally sensible to group information assets in a logical manner e.g. where they all related to the same information system or business process. Typical assets include, but are not limited to:

- Databases and data files
- Back-up and archive data
- Audit data
- Videos and recordings
- Paper records
- Reports, plans and other strategic documentation
- Financial records
- Applications and System Software
- Data encryption utilities
- Development and Maintenance tools
- Computing hardware including PCs, Laptops, PDAs, communications devices e.g. mobile phones and removable media

All information assets are documented within the Sefton Council's Information Asset Register, together with the details of the 'Information Asset Owner' and risk reviews undertaken or planned. The priority are those assets which contain service user, patient or other personal data, or those which contain confidential or safety-critical data. This should be reviewed by IAOs on an annual basis.

Key aspects to establish are:

- Identification of information types which need protection, e.g. personal data or confidential and to review whether the arrangements are adequate
- Identify with whether there is information/data that can be immediately destroyed e.g. trivial/duplicated/obsolete/the retention date has expired?
- Ensure retention schedules are assigned to the information types
- Identify key corporate information assets and assess whether these are being exploited sufficiently

In assessing the business requirements for our information assets, we may find assets which are no longer required and action should be taken to dispose of them.

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Further information on the Council's Risk Management Process and 'Risk Appetite' can be found in the Corporate Risk Policy and Risk Management Handbook. Please see the link below:

[Risk and Resilience \(smbc.loc\)](http://smbc.loc)

## **Risk Appetite**

Risk appetite can be defined as 'the amount and type of risk that the Council is willing to take in order to meet its strategic objectives. Organisations in general will have different risk appetites depending on their sector, culture and objectives. In practice, there is likely to be a range of appetites which exist for different risks, and these may change over time.

Audit and Governance Committee have also now endorsed a **Risk Appetite Framework** for the Council which sets out the level of risk that members have decided is acceptable for the organisation and gives a framework within which officers can make proposals and take delegated decisions.

Further information on the Risk Appetite Framework (RAF) can be found in Annex C of the Corporate Risk Management Handbook.

## **5.2 Information Risk Manual records**

Information assets have risks associated with them; risks from losing an asset, accidental disclosure, misuse by an individual, corruption of the asset or any number of other issues. By considering these risks we should be able to mitigate against them and form contingency plans. Any such risks should be escalated to appear on departmental or corporate risk registers.

Any loss or theft of a Council owned asset, such as a laptop or mobile phone must be reported immediately to the ICT Service desk.

The majority of information assets held by the Council are held electronically but some manual records still exist within particular service areas of the Council. It is recommended that at least once a year, risk assessments of manual records are conducted.

The frequency and method of such assessments must be undertaken via departmental Information Asset Owners in conjunction with their Assistant Director and findings reported back to the Council's Information Management and Governance Executive. Where manual/paper records are identified during the course of an information audit, these must be documented on the information asset register and a risk assessment form completed.

Information Risk Assessments should be routinely undertaken to include assurance of compliance with legislative and regulatory requirements and other information or records management standards as appropriate. Conducting such assessments will help to improve better change management, improved understanding of information risk and identification of potential savings and efficiencies.

A copy of the risk assessment form is available on the Intranet alongside this policy.

## 5.3 Data Protection Impact Assessment

A Data Protection Impact Assessment (DPIA) is a process to help you identify and minimise the data protection risks of a project. You must do a DPIA for processing that is likely to result in a high risk to individuals. This includes some specified types of processing, which are:

- We plan to use systematic and extensive profiling with significant effects.
- process special category or criminal offence data on a large scale; or
- systematically monitor publicly accessible places on a large scale.

If you are unsure whether you need to conduct a DPIA, consult the Council's DPO. You may also need to consult with individuals and other stakeholders throughout the process.

It is also good practice to do a DPIA for any other major project which requires the processing of personal data.

It seeks to identify privacy risks for individuals (citizens and staff) and compliance risks for the Council. A DPIA must include the following:

- A description of the nature, scope, context and purposes of the processing
- An assessment of the necessity, proportionality and compliance measures
- The identification of risks to individuals arising from the processing proposed and assessment of the risks
- The measures required to mitigate any identified risks

A DPIA is a key risk management tool, and an important part of integrating 'data protection by design and by default' across the Council. It helps to identify, record and minimise the data protection risks of projects.

Guidance on undertaking a Data Protection Impact Assessment for new or existing systems can be sought from the Council's Data Protection Officer (DPO). If your DPIA identifies a high risk and measures cannot be taken to reduce that risk, the ICO must be consulted. Processing cannot start until the ICO has been consulted.

## 5.4 Information Incident Reporting

Any incident involving actual or potential breaches of personal data, confidentiality, and Sefton Council's information governance policies must be reported to the Council's DPO and investigated in line with Sefton Council's existing incident reporting procedures. See Data Breach Reporting procedure on the Intranet.

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<http://intranet.smbc.loc/our-council/data-protection-information-handling/data-breach.aspx>

Any incident involving actual or potential breaches of information security on ICT systems must be reported to the Council's Senior Manager ICT and Digital (also the Council's SIRO) and the IT Service Desk.

## **5.5 Monitoring & Review**

The Information Risk Policy will be reviewed on a bi-ennial basis by the Information Management Group Executive.



# Guidance on disclosing information to Elected representatives

September 2023

## Summary Sheet

### Document Information

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2.0	July 2018	Catherine Larkin	Order 2002 revoked and replaced by DPA 2018, Schedule 1, Part 2, Paras 23 & 24
3.0	September 2023	Catherine Larkin	Technical change to reference UK GDPR and include definition of elected representative

**Guidance note - Disclosing information to elected representatives on behalf of constituents**

Citizens have the right to ask their elected representative to assist them with a variety of matters and it is the Council's duty to protect the personal information we hold.

A local authority does not generally have to get the express consent of an individual to disclose their personal information to an elected member, as long as:

- the elected member represents the ward in which the individual lives;
- the elected member makes it clear that they are representing the individual in any request for their personal information to the local authority; and
- the information is necessary to respond to the individual's enquiry or complaint.

For the purposes of this guidance, the meaning of 'elected representative' is taken from Schedule 1, Part 2, paragraph 23(3) of the Data Protection Act 2018, which is as follows:

*'(3) In this paragraph, "elected representative" means—*

- (a) a member of the House of Commons;*
- (b) a member of the National Assembly for Wales;*
- (c) a member of the Scottish Parliament;*
- (d) a member of the Northern Ireland Assembly;*
- (e) a member of the European Parliament elected in the United Kingdom;*
- (f) an elected member of a local authority within the meaning of section 270(1) of the Local Government Act 1972, namely—*
  - (i) in England, a county council, a district council, a London borough council or a parish council;*
  - (ii) in Wales, a county council, a county borough council or a community council;*
- (g) an elected mayor of a local authority within the meaning of Part 1A or 2 of the Local Government Act 2000;*
- (h) a mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;*
- (i) the Mayor of London or an elected member of the London Assembly;*
- (j) an elected member of—*
  - (i) the Common Council of the City of London, or*
  - (ii) the Council of the Isles of Scilly;*
- (k) an elected member of a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;*
- (l) an elected member of a district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.));*
- (m) a police and crime commissioner.*

This guidance also applies to constituency workers - the elected representatives' official assistants/staff.

Provided you are satisfied that the “elected representative” is who she/he says they are and that it is clear that the enquiry is being made on behalf of the individual constituent we should not obstruct the process.

Elected members are data controllers for the personal data they process and therefore must comply with the data protection principles and enable people whose data they process to exercise their information rights.

Therefore, elected representatives must provide individuals with privacy information at the point any personal data are collected from them. This includes having a lawful basis for the processing and telling the constituent the basis they are relying on to process their personal data.

## Guidance

Guidance on the use of personal data by elected representatives carrying out constituency work is available from the Information Commissioner’s Office (ICO) at the link below:

[Guidance for the use of personal data by elected representatives in carrying out constituency casework | ICO](#)

## Special categories of personal data

Many enquiries will be straightforward in nature and involve minimal disclosure of personal data. However, in some cases the enquiry or complaint raised by the constituent will be highly sensitive and involve the processing of ‘special categories’ of personal data.

There are different requirements when dealing with personal data that are classed as a ‘special category’ of data under the UK General Data Protection Regulation (GDPR) and the Data Protection Act 2018. ‘Special categories’ of personal data are defined as:

- racial or ethnic origin;
- political opinions;
- religious or philosophical beliefs;
- trade union membership;
- genetic data;
- biometric data, where used for identification purposes;
- health;
- sexual life; or
- sexual orientation.

When the Council processes special category data, it must identify both a lawful basis for processing and a special category condition for processing in compliance with Article 9 of the UK GDPR. The lawful basis for processing and the special category condition must be documented so that you can demonstrate compliance and accountability.



The substantial public interest conditions give you the basis in UK law for relying on Article 9(2)(g). These conditions allow you to process special category data for a variety of specific purposes.

The Data Protection Act 2018 (Schedule 1, Part 2, paragraphs 23 & 24) provides substantial public interest conditions for the processing of sensitive personal data by elected representatives in connection with their function as a representative and including the disclosure of such information where necessary; and the disclosure of sensitive personal data by organisations responding to elected representatives acting on behalf of individual constituents.

When providing personal information to the elected member, you should make clear that it is provided only to help the individual and must not be used for any other purpose.

In exceptional circumstances, prior to responding to a Member we may need to contact the constituent to inform them of a planned disclosure. For example, where the response involves disclose particularly sensitive information which could cause distress to the individual. In such circumstances the obligation to process fairly and lawfully – which includes respecting a duty of confidentiality - could mean that the individual should be alerted to the intended disclosure and consent obtained.

Staff should follow some simple security rules in order to safeguard the information being provided in response to an enquiry:

- Establish in a proportionate manner that the caller/visitor is who they say they are - details of all Sefton Councillors and MPs are on the Council’s website.
- Do not automatically disclose information - before disclosing information, staff must only contact the elected representative via an official contact channel. In the case of a phone call, staff should ring back using an official contact number (held on the Sefton telephone directory/website).
- Use only official/secure contact channels - the elected representatives’ official contact details, and Sefton/ House of Commons email accounts and addresses, are shown on Sefton’s website.
- Personal information should never be sent to an elected representative via non- secure email addresses (e.g. personal Google mail, Hotmail accounts etc.) or by post to unofficial postal addresses.
- Minimise the amount and sensitivity of the personal data being released – always respond to the specific enquiry only.
- Advise the elected representative that the information is provided to help the individual with their enquiry and must not be used for any other purpose. This should be made clear to the elected representative in any response issued (email, letter, phone call).
- In the case of “constituency workers” the request can be accepted on a member or MP’s behalf but cannot share any information during a call or interview. The process is to respond with the information requested by email to the elected representatives official email address.
- Keep a record of the information provided to the elected representative.

## Disclosures to a councillor as a member of the council

You can disclose personal information to a councillor if they need to access and use the information to carry out official duties. For this purpose, councillors are in the same position as an employee and you should only give the councillor access to the personal information they need to carry out their duties.

The councillor should specify the purposes for which that information may be used or disclosed.

Remember – Councillors, Members of Parliament and Constituency Workers have the same right as any other individual to make requests under the Freedom of Information Act. The same rules and exemptions apply to such requests as they do to requests made by members of the public.

If you feel a request falls outside the scope of this guidance, for example, it does not relate to an identifiable, specific or relevant matter or is particularly sensitive, you should seek guidance.

In the first instance contact your line manager who can support you in the practical application of the guidance. If your line manager has any concerns about providing information to an elected representative, they should refer the matter to Catherine Larkin (Information Management and Governance Lead and the Council's Data Protection Officer) [catherine.larkin@sefton.gov.uk](mailto:catherine.larkin@sefton.gov.uk) or Fiona Townsend (Senior Lawyer – Litigation and Regulatory) [Fiona.Townsend@sefton.gov.uk](mailto:Fiona.Townsend@sefton.gov.uk)

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<b>Report to:</b>	Audit and Governance Committee	<b>Date of Meeting:</b>	Wednesday 13 December 2023
<b>Subject:</b>	Procurement – National Procurement Policy and Contract Procedure Rules		
<b>Report of:</b>	Executive Director of Corporate Resources and Customer Services	<b>Wards Affected:</b>	(All Wards);
<b>Portfolio:</b>	Cabinet Member - Regulatory, Compliance and Corporate Services		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

## Summary:

This report presents:

1. updates on national policy direction
2. a refresh of the Contract Procedure Rules for consideration and approval

## Recommendation(s):

Committee is asked to

- (1) Consider and approve draft Contract Procedure Rules at Annex A
- (2) Note that a full rewrite of the Contract Procure Rules will take place once the updated national guidance is published, and a further report will be presented for consideration.

## Reasons for the Recommendation(s):

A refresh of the Contract Procedure Rules is presented (Annex A) to Audit and Governance for consideration and approval. Once national changes are published there will be a full rewrite of the Contract Procedure Rules.

## Alternative Options Considered and Rejected: (including any Risk Implications)

NA

## What will it cost and how will it be financed?

### (A) Revenue Costs

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There are no direct revenue implications associated with the recommendations within this report.

## (B) Capital Costs

There are no direct capital implications associated with the recommendations within this report.

### Implications of the Proposals:

#### **Resource Implications (Financial, IT, Staffing and Assets):**

There are no direct resource implications associated with the recommendations within this report.

It is to be noted that the resource implications associated with the new Procurement Act are anticipated to be significant but will not be fully understood until the relevant guidance is published.

#### **Legal Implications:**

The Procurement Bill received Royal Assent on 26<sup>th</sup> October - officially making the Bill into an Act of Parliament.

#### **Equality Implications:**

There are no equality implications associated with this report.

#### **Impact on Children and Young People: No**

Neutral impact. The content of this report is an propose a refresh to existing Contract Procedure Rules for consideration update. Individual procurement exercises will consider the impact on children and young people. As a Corporate Parent the Council will seek to ensure that social value opportunities are maximised for care experienced young people through its procurement activity.

#### **Climate Emergency Implications:**

The recommendations within this report will

Have a positive impact	No
Have a neutral impact	Yes
Have a negative impact	No
The Author has undertaken the Climate Emergency training for report authors	Yes

Neutral impact. The content of this report is an propose a refresh to existing Contract Procedure Rules for consideration update. Individual procurement exercises will consider Climate Emergency implications.

## Contribution to the Council's Core Purpose:

Protect the most vulnerable: The Council can use procurement activity as a tool to ensure quality services are available to support the most vulnerable children and adults. Procurement supports a of range of activity to enable vulnerable people to live independently and live the lives they wish to live.
Facilitate confident and resilient communities: Procurement enables a range of activity and services aimed to empower people to become more independent and contribute and engage in their local communities, thereby improving confidence and resilience.
Commission, broker and provide core services: The procurement process supports the Council in securing the best value for money and delivering wider economic, social and energy benefits.
Place – leadership and influencer: The Council can use procurement activity to boost jobs, growth and investment, and to create an economy that is more innovative, resource and energy efficient, and socially-inclusive.
Drivers of change and reform: The Procurement team develop policy and enable the implementation of effective procurement strategies, which support the Council, Commissioners and individual services in making effective sourcing and procurement decisions that can support the delivery change and reform.
Facilitate sustainable economic prosperity: The Council can use procurement activity as a tool to boost jobs, growth and investment, and to create an economy that is more innovative, resource and energy efficient, and socially inclusive.
Greater income for social investment: Procurement activity supports a range of projects driving change and innovation; with a focus on achieving value for money, compliance, ethical procurement and social value.
Cleaner Greener Procurement activity enables a range of projects driving change and innovation; with a focus on minimising the impact of climate change.

## What consultations have taken place on the proposals and when?

### (A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.7435/23.....) and the Chief Legal and Democratic Officer (LD.5535/23....) have been consulted and any comments have been incorporated into the report.

### (B) External Consultations

NA

### Implementation Date for the Decision

Immediately following the Committee meeting.

<b>Contact Officer:</b>	Jan McMahan
Telephone Number:	Tel: 0151 934 4431
Email Address:	jan.mcmahan@sefton.gov.uk

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**Appendices:**

Appendix A Draft Contract Procedure Rules

**Background Papers:**

There are no background papers available for inspection.

## 1. Context

- 1.1 In December 2020 Cabinet Office issued the ‘Transforming Public Procurement’ report for consultation. In June 2021 new guidance was published that says job creation, investment in skills and opportunities for local growth should be taken into account by councils and other public bodies when awarding public contracts.
- 1.2 The new guidance, issued to officials in local councils, central government, NHS trusts, police forces and other public organisations, says that the wider benefits of spending public money should be factored into the procurement process.
- 1.3 The Procurement Bill received Royal Assent on 26<sup>th</sup> October 2023. The Government has indicated that the new procurement regime will go live in October 2024. The Government is planning for the necessary secondary legislation to be laid in Parliament in early 2024, and it is anticipated that the new regulations will come into effect from October 2024 after a six month preparation period.

The Government will shortly be publishing further guidance and communications materials to support stakeholders, and in December will be launching the first L&D product; the Knowledge Drops.

Further guidance and training will continue to be published through the next 12 months. All materials will be accessible from the Transforming Public Procurement webpages on [Gov.uk](https://www.gov.uk)

- 1.4 National changes to procurement thresholds will come into effect from January 2024. The threshold for Light Regime services has not changed.

A summary of the main thresholds is below, with the 2022-2023 thresholds (which will remain in effect until 31 December 2023) shown in italic text by way of comparison:

Type of authority	Type of contract			
	Works	Supplies & services	Light Touch Regime Services	Concessions Works and service
Central government bodies	£5,372,609 <i>£5,336,937*</i>	£139,688 <i>£138,760*</i>	£663,540 <i>£663,540*</i>	£5,372,609 <i>£5,336,937*</i>
Sub-central	£5,372,609	£214,904	£663,540	£5,372,609

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<b>authorities</b>	£5,336,937*	£213,477*	£663,540*	£5,336,937*
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There are also changes to the thresholds for Utilities, with the threshold for contracts for supplies and services changing from £426,995 to £429,809 and the threshold for works changing from £5,336,937 to £5,372,609.

1.5 Officers have reviewed and updated the draft Contract Procedure Rules for consideration. The proposed changes include

- a) guidance to Officers completing the Risk Assessment form as to the circumstances in which financial checks should be requested.
- b) the need for a loan agreement between the Council and one of its wholly owned companies be sealed where it meets the financial threshold whereby a contract would be sealed.

## 2. Contract Procedure Rules

2.1 In light of the above a refresh of the current Contract Procure Rules (CPRs) is presented at Appendix A for consideration and approval.

2.2 Members should be aware that a full rewrite of these will be required in due course to reflect legislative changes.



# Sefton Council

Contract Procedure Rules 2023/24

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# 1.0 CONTRACTS PROCEDURE RULES WHICH APPLY TO ALL CONTRACTS

## 1.1 BASIC PRINCIPLES

### 1.1.1 Introduction

#### 1.1.1.1 Minimum requirements

Officers responsible for, or involved in, procurement, commissioning, contract administration or contract management must comply with these Contract Procedure Rules. They lay down **minimum requirements** and a more detailed procedure may be appropriate for a particular contract.

#### 1.1.1.2 Local Government Act 1972

These Contracts Procedure Rules are Standing Orders made under section 135 of the Local Government Act 1972. These rules apply to all Officers of the Council.

#### 1.1.1.3 Scope of contracts

A contract for the purposes of these Contracts Procedure Rules shall be any agreement between the Council and one or more parties in respect of:

- The carrying out of works for the Council
- The purchase, leasing, or hiring of supplies or materials by the Council including the use of grant funding
- The supply of consultancy, agency workers and other services to the Council

For the avoidance of doubt these Contracts Procedure Rules shall not apply to: -

- The sale, leasing or purchase of land, or of any interest in land (Officers are requested to note that land transactions are generally subject to best value considerations under Local Government legislation and some property transactions e.g. long building leases etc. may need to take account of Procurement legislation.

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- Advice in respect of land and property transactions must be sought from the Executive Director of Corporate Resources and Customer Services (on a case by case basis): or
- Any Contract of Employment

## 1.1.1.4 Service user choice

There are certain circumstances where the public can access a service of their choice and the Local authority is obliged by regulation to pay the associated costs. This is mainly in regard to Adult Social Care Nursing and Residential Care homes, and Open Access Sexual Health services. In these circumstances client officers must work with Commissioning to ensure that relevant guidance, risk, invoicing and cost is clearly understood, managed and adhered to.

## 1.1.1.5 Good procurement practice

These contract procedure rules are intended to promote good procurement and commissioning practice, transparency, public accountability, and deter corruption. The best defence against allegations that expenditure has been committed incorrectly or fraudulently is by following the Contracts Procedure Rules.

## 1.1.1.6 Value Added Tax

All values specified in these rules shall be exclusive of Value Added Tax.

## 1.1.1.7 Constitution

These Contracts Procedure Rules must be read in conjunction with the relevant parts of the Council's Constitution (including the [Financial Procedure Rules](#)).

### [Link to the Constitution](#)

## 1.1.1.8 External Funding

External funders may impose additional requirements in respect of advertising, tendering, scoring and record keeping. In such cases it may be necessary to modify the approach to procurement in specific circumstances.

## 1.1.1.9 Procurement guidance

If a Client Officer is in any doubt as to if and how the Contracts Procedure Rules are applicable to a prospective procurement then the Corporate Procurement Unit must be contacted for advice and guidance.

## 1.1.1.10 Schools

These rules will apply to all Sefton Council maintained schools, in accordance with “Fair Funding Guidance: Scheme for Financing Schools.

## 1.1.1.11 Lord Young reforms

The Public Contracts Regulations, bolstered by the Lord Young Reforms, seek to afford greater opportunity of supply to Small and Medium Enterprises (SME’s). Regulation 46 of the 2015 regulations in particular encourages procuring authorities to considering dividing requirements into Lots for which providers can bid, or formally documenting reasons why dividing of Lots has not taken place.

## 1.1.1.12 Contract Procedure Rules review

These Contracts Procedure Rules shall be reviewed periodically by the Assistant Director Corporate Resources & Customer Services (Strategic Support), in consultation with the Executive Director of Corporate Resources and Customer Services and the Chief Legal and Democratic Officer. The frequency of review shall, as a maximum, be annually in order to incorporate any change in legislative spend thresholds.

## 1.1.2 Legal Compliance

All procurement procedures and contracts shall comply with all legal requirements and no officer or Committee or Board of the Council may seek to avoid them. If in doubt advice must be sought from Assistant Director Corporate Resources & Customer Services (Strategic Support).

## 1.1.3 Public Contracts Regulations

All relevant contracts must comply fully with the requirements of Public Procurement (Amendment Etc) (EU Exit) (No. 2) Regulations 2020, Public Contracts Regulations 2015 (collectively known as the ‘Public Contract Regulations’ within this document), including Regulation 57, which outlines grounds for mandatory exclusion of bidders from a procurement process.

### [Public Contract Regulations 2015](#)

### [Public Procurement \(Amendment Etc\) \(EU Exit\) \(No. 2\) Regulations 2020](#)

In particular Regulation 57 (e) (i) addresses the Council’s ability to exclude a bidder for non-payment of taxes by way of a bidder being convicted of: *“the common law offence of cheating the Revenue”*

## 1.1.4 EU Principles - Transparency and Non-Discrimination etc.

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The award process and structure of all contracts shall comply with the Principles of Openness, Fairness, Transparency, Non-Distortion of Competition, Non-Discrimination, Equal Treatment, Proportionality and Mutual Recognition.

## 1.1.5 Procurement Documentation

All contracts and contractual processes shall be consistent with these Contract Procedure Rules and any all relevant procurement guidance, Commissioning and or Procurement Strategy.

## 1.1.6 Contracts where the Council acts as Agent

Where the Council acts as the Agent for any other Local Authority or Public Body or company these Contracts Procedure Rules shall apply unless the Assistant Director Corporate Resources & Customer Services (Strategic Support), instructs otherwise in writing.

## 1.1.7 Calculating the Financial Value of a contract

### 1.1.7.1 Contract values assessment

In deciding the value of contracts for the purposes of applying the requirements of these Contracts Procedure Rules the Client Officer must take into account:

- The **total cost for the lifetime** of the contract (including any proposed optional periods)
- That the value of contracts of like nature shall be aggregated and that aggregate value shall be applied.
- In the case of joint procurement arrangements, the value shall be the value of all parties' purchases under the contract.
- In the case of long term adults and children's social care contracts which have no defined end date, the total cost will be valued at 4 years for the purpose of applying the Public Contracts Regulations.
- No officer or Committee or Board of the Council may seek to divide potential contracts in order to avoid the requirements of these Contracts Procedure Rules or Public Contracts Regulations.

### 1.1.7.2 Disaggregation

Officers must not actively seek to disaggregate or fragment prospective spend amounts for the purpose of avoiding specific procurement activity.

### 1.1.7.3 Procurement Spend Thresholds



The Public Contracts Regulations require particular procurement processes to be utilised where the estimated contract value exceeds predetermined spend thresholds. The current Public Procurement Spend Thresholds (for the whole of the contract including any optional years) are:

<b>Supplies / Services</b>	£214,904 including VAT and <b>£179,087 excluding VAT</b>
<b>Works</b>	£5,372,609 including VAT and <b>£4,477,174 excluding VAT</b> (as detailed within Schedule 2 of the Public Contracts Regulations)
<b>Social and Other specific Services (the Light Touch Regime)</b>	£663,540 including VAT and <b>£552,950 excluding VAT</b> (as detailed within Schedule 3 of the Public Contracts Regulations)

*Note: Spend threshold figures correct as of January 2022, but subject to ongoing change, ordinarily on a two year cycle. Updates to the threshold figures shall be updated as appropriate on the [Procurement intranet](#).*

Both Schedules 2 and 3 of the Regulations can be viewed here: -

[Public Contracts Regulations 2015](#)

## 1.1.8 Public Services (Social Value) Act 2012

### 1.1.8.1 Social Value statutory duties

Contracting Authorities are under a statutory duty to consider economic, social and environmental well-being issues at the pre-procurement stage of a public service contract: -

- How the economic, social and environmental wellbeing of the Local Authority
- Area might be improved by the proposed contract;
- How in conducting the procurement process, the Council might act with a view to securing that improvement (NB. Only matters that are relevant to what is to be procured can be taken into account and those matters must be proportionate);
- Whether any consultation must be undertaken in relation to social value matters.

The Council goes beyond the provisions of the Public Services (Social Value) Act 2012 in its assessment of social value in alignment with the principles laid out in the Ethical Business Practices.

The Council supported the principles on [Procurement Policy note 5/21](#) that Public procurement should be leveraged to support priority national and local outcomes for the public benefit.

The Council intends to ensure that their approach to social value supports:

- Creating new businesses, new jobs and new skills in the UK;
- Improving supplier diversity, innovation and resilience;
- Tackling climate change and reducing waste.

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## Ethical business practices (see report to Council 23<sup>rd</sup> January 2020 page 281)

### 1.1.8.2 Social Value £20,000 to £100,000 (whole life cost)

Social Value must be considered with appropriate social value questions embedded within the tender questionnaire. Generally, the weighting of social value should 10% of evaluation model, however this weighting can be flexible based on the opportunity within the market to deliver meaningful social value.

Works contracts below £100,000 may be excluded from social value assessment, unless the Officer believes there is a significant opportunity to embed social value into the requirements.

Client Officers are responsible for contract managing the delivery of social value outcomes.

### 1.1.8.3 Social Value over £100,000 (whole life cost)

Social Value must be considered with use of the Social Value Portal required within the tender questionnaire. The Social Value Portal provides an opportunity for Bidders to detail the proposed social value, quantify the value of the social value against validated standards, and to provide a methodology for the delivery of the social value.

Works contracts above £100,000 are included for use of Social Value Portal.

## Social Value Portal

### 1.1.8.4 Social Value weighting

Generally, the weighting of social value should in 10% of evaluation model, however this weighting can be flexible based on the opportunity within the market to deliver meaningful social value.

### 1.1.8.5 Social Value Contract Management

Client Officers are responsible for contract managing the delivery of social value outcomes. Social Value Portal will proactively work with successful suppliers awarded Contracts to report Social Value outcomes delivered within the tool.

In the event of a Services tender being issued using Public Contract Regulations processes and not including social value a file note should be captured by the Procurement Team member to ensure a justification for not considering social value is captured.

### 1.1.9 Forfeiture in Case of Bribery or Corruption

There shall be inserted in every contract a clause empowering the Council 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 having

forborne to do any action in relation to the obtaining or execution of the contract or any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by the contractor or acting on the contractor's behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council, the contractor, or any person employed by the contractor or acting on the contractor's behalf shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward, the receipt of which is an offence under Section 117 of the Local Government Act 1972.

## 1.1.10 Contract sealing

Every contract, including those with the Council's wholly owned companies for example loan agreements, which exceeds £250,000 in value with any individual contractor (for the whole of the contract as opposed to the annual value) shall be sealed with the Council's Seal and shall be executed by the Contractor as a Deed. In order that a contract can be sealed the following package of documents must be forwarded in hard copy or electronic PDF format by the Procurement Team to Corporate Legal Services:

- The Invitation to Tender (ITT), or Request for Quotation (RFQ) document, Crown Commercial Services G Cloud Order Form (as applicable)
- The successful bidder's ITT or RFQ
- The Internal Authorisation to award a contract as per delegated authority (Cabinet / Cabinet member etc.)
- Copies of the award & acceptance correspondence
- The bidder's in-date insurance cover.
- A summary of questions asked by bidders during the procurement process and responses provided by the Council

Where commodities have a limited lifespan e.g. Liquid fuels, used within a couple of weeks, or laptops that have 2 year warranties an agreement between Assistant Directors and Legal can be reached in the Pre procurement report or the report to award that the contact does not need to be sealed.

There are instances below £250k where the contract/document must be sealed to ensure the Council benefits from the associated protections, advice can be obtained from the Legal Team.

Corporate Legal Services shall advise if the contract will require physical signature or where an electronic signature from the successful supplier will suffice.

Where the contract being sealed is via a waiver the following package must be forwarded in hard copy or electronic PDF format to by the Procurement Team to Corporate Legal Services.

- The Contract documentation
- The Internal Authorisation to waive Contract Procedure Rules
- The bidder's in-date insurance cover.

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## 1.1.11 Contract roadmap

The Council will ensure that its Contract roadmap is published on its website and that details of procurement pipelines for re-procurement of existing contracts and new requirements are published from April 2022 unless otherwise defined by law.

## 1.2 OFFICER RESPONSIBILITIES

### 1.2.1 Roles and Responsibilities

Ahead of any procurement exercise commencing the roles of all Officers to be involved in the exercise must be determined and responsibilities for undertaking all aspects of the procurement process shall be set out and clearly assigned, in order that the process is properly controlled and undertaken and there is a clear understanding of the requirements of each member of the team throughout the process.

The assignment of roles and responsibilities shall be kept under review throughout the course of the procurement and, in terms of contract management and contract performance management, throughout the term of the contract.

The assignment of roles and responsibilities, including any changes in the assignment of those roles and responsibilities during the course of the procurement, shall be documented within a suitable Procurement Roles and Responsibilities Plan.

Roles and Responsibilities documentation will be produced by a member of the Procurement Team and regularly reviewed to meet this need.

Roles and responsibilities document

<http://intranet.smbc.loc/our-council/procurement.aspx>

### 1.2.2 Adequate Budget Provision

No Officer should seek to enter into a contract, or purport to enter into a contract, for the provision of supplies, works or services unless there is adequate provision in the agreed Capital Programme and/or agreed Revenue Budgets. If in doubt the Executive Director of Corporate Resources and Customer Services must be consulted.

Any proposed spend of previous year funding must be agreed as an exception by Executive Director of Corporate Resources and Customer Services.

### 1.2.3 Disciplines

Ahead of commencing any procurement exercise Officers must give thought to the question of which disciplines need to be considered for either operational involvement in the process or within an advisory support role. For instance, whilst the need for the involvement of Operational and Procurement Officers is apparent, in addition consideration must be given to the value of other disciplines, which as examples may include but not be limited to:

- Legal
- Audit
- Contribution from Client Support Officers
- Finance
- Human Resources
- Investment and Employment Service
- External Advice/Consultancy – Private or another Local Authority
- External Social Value advice from Social Value Portal

## 1.2.4 Information Management

Officers must be mindful that throughout any Procurement exercise the governance, management and security of information is vital to both the integrity of the work to be conducted, and potentially the reputation of the Council. Officers must therefore ensure:

- Storage and handling of Procurement or any supporting information or documentation, whether digital, paper or another format is carried out securely.
- Where the information and documentation are in a digital format this may involve using an encrypted fixed or digital device or other suitable and secure mechanism to ensure that access is restricted only to those Officers involved in the procurement project and in accordance with their assigned roles and responsibilities. It may involve Officers using their allocated personal drive within the Council's ICT system, to which access is limited, or creation of a shared folder secured through controlled access rights, password or some other means to prevent unauthorised access.
- All documents forming part of a tender / request for quotation process, (including specifications, tender / ARFQ documents, evaluation documents etc.) must be subject to effective document management, including version control, review and sign-off and shall be held in a readily identifiable folder titled: ***'Procurement of [INSERT PROJECT TITLE HERE]'***.
- As a guiding principle, Officers must be mindful that other people, including fellow Officers, not involved in a procurement exercise must not have access to information that relates to it.
- Diligence is employed when conducting discussions that relate to a Procurement exercise. Officers must be mindful of both topics discussed, and the environment within which they are discussed. Consideration must be given to holding discussions in a controlled area, such as an individual's personal office, or a meeting room, in order to ensure that only an invited group of officers are privy to information discussed.
- Officers must also be mindful of the content of telephone conversations held in an uncontrolled environment, if in any doubt that the content of a proposed conversation is sensitive then arrangements must be made to hold that discussion in a controlled area.

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- Control is employed when communicating with bidders or potential bidders within a procurement exercise. Officers must ensure that no direct verbal or email communication is entered into with a bidder, bidders or potential bidders, or their representatives. Officers must ensure that all communication with any bidder or their representative, within any procurement exercise must be carried out in written form, through the Council's electronic opportunities portal, via the member of the Procurement Team holding responsibility for that.

Procurement Officers must ensure that the Council's Electronic Opportunities portal is utilised where appropriate to store documents created throughout the procurement process in order to build a comprehensive audit trail. Such documents will include, but not be limited to:

- Evaluation Panel members' individual scores and scoring notes
- Moderated scores
- Moderation notes
- Finalised Master Evaluation Matrix
- Versions of Invitation to Tender (ITT) documents
- Versions of Advanced Request for Quotation (ARFQ) documents
- Versions of Selection Questionnaires
- Responses to questions raised by bidders
- Copies of correspondence (for example Mandatory Standstill)

Where procurement processes must be conducted outside of the e sourcing portal, for example Crown Commercial Services G Cloud, email communication is permitted but must be held in appropriate secure storage for audit trail purposes.

## 1.2.5 Corporate Contracts

A corporate contract exists where the Council has entered into a contract for the provision of supplies, services, or works, and agreed rates for such.

Before procuring supplies, services or works, an Officer shall ascertain whether any corporate contract has been entered into in relation to those supplies, services or works.

This requirement is mandated on all Council Officers. Any requirement to purchase such supplies, services or works from alternative non-contracted suppliers must first be agreed in accordance with the Waiver Procedure set out in these Contract Procedure Rules.

## 1.2.6 Bonds and Security

- 1) A performance bond or adequate security (surety) should be considered in all cases.
- 2) A performance bond or other security (including but not limited to 3 below) will be required where;

- a) the value of the contract is such that the risk of failure is sufficiently high;
  - b) the nature and length of the contract is such that the risk of failure is sufficiently high;
  - c) the estimated cost of re-establishing a service if the contract fails is sufficiently high;
  - d) there are known technical difficulties associated with the contract; or
  - e) the circumstances otherwise suggest that a performance bond or other surety is required.
- 3) As an alternative to a bond, where the contractor is a limited company which is part of a larger group, the ultimate holding company may be required to provide a parent company indemnity in addition to or instead of a performance bond or other security.
  - 4) The decision as to whether a performance bond or other security is required shall be made by the Assistant Director in consultation with the S151 Officer (or delegated officer). This will be a decision that is determined by commercial, financial, procurement and legal considerations and as such advice may be sought from officers in Finance, Procurement and Legal Services as required.
  - 5) If it is decided that there shall be a performance bond or other security the decision as to the precise form of the bond or other security shall be made by the Assistant Director in consultation with the S151 Officer (or delegated officer). This will be a decision that is determined by commercial, financial, procurement and legal considerations and as such advice may be sought from officers in Finance, Procurement and Legal Services as required.

## 1.2.7 Contracts – Delay and liquidated damages

In the case of Works contracts over the total value of £100,000 and, in any other case where a risk assessment, undertaken at pre procurement stage, considers it necessary, a clause shall be inserted in the contract providing for the payment of liquidated damages (calculated as a genuine pre-estimated of loss) in circumstances where the contract is not completed within the time specified.

Where completion of the contract is delayed it shall be the duty of the relevant Client Officer under the contract to take appropriate action in respect of any claim for liquidated damages as may be provided for within the terms and conditions of the contract.

## 1.2.8 Breach of Contracts Procedure Rules



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Any breach or non-compliance with these Contracts Procedure Rules must, on discovery, be reported immediately to the Assistant Director Corporate Resources & Customer Services (Strategic Support), Executive Director of Corporate Resources and Customer Services, and the Chief Internal Auditor.

The Assistant Director Corporate Resources & Customer Services (Strategic Support), and the Chief Internal Auditor shall consider whether each reported breach or non-compliance presents a significant risk of harm to the Council's interests and if satisfied that such risk exists shall undertake any necessary investigation and report the findings to the relevant Assistant Director, Executive Director of Corporate Resources and Customer Services and Chief Executive, as appropriate.

Officers must be aware that any non-compliance with Contract Procedure Rules could result in disciplinary action.

## 1.2.9 Conditions of Contract

In every written contract for the execution of works or the supply of supplies or services, the following clauses shall be inserted (unless Industry Standard Conditions are being used e.g. NEC, JCLI, JCT, Public Health Standard Form etc. in which case they must be checked to see if similar clauses are already included in the standard to avoid any confusion and/or duplication): -

**Clause A** - The Contractor must comply with the provisions of the Employment and the Trade Union and Labour Relations (Consolidation) Act, 1992, and in particular shall ensure that all persons employed by him or her in relation to the execution of the contract are afforded the rights and facilities specified in those Acts regarding trade union Membership.

**Clause B** - The Contractor must comply with national equality legislation to deliver services fairly and without unlawful discrimination.

**Clause C** - The attention of the Contractor must be drawn to the importance of complying in all respects with:

- (i) The provisions of the Equality Act 2010. The Contractor shall have regard to the nine protected characteristics within the Act and must not discriminate either directly or indirectly on the grounds of: - Age, Disability, Gender Re-assignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion, Sex, Sexual Orientation
- (ii) The requirements of the Public Interest Disclosure Act, 1998:
- (iii) The requirements of the Freedom of Information Act 2000 and Regulations made thereunder. The Council's obligations in respect of the said Act are also drawn to the attention of the Contractor.
- (iv) The requirements of the Bribery Act 2010
- (v) The Contractor shall be responsible for the observance of clauses a–c (i)–(iv) above by Sub Contractors employed in the execution of the contract and shall notify the Council of the names and addresses of all such Sub-Contractors.
- (vi) The requirements of the Social Value Act 2012



## Health and Safety Conditions of Contract

The Contractor must comply with the 1974 Health and Safety at Work etc. Act (HASWA), Health and Safety Regulations, and Codes of Practice that are approved by the Health and Safety Executive.

The Contractor must comply with the Councils Health and Safety Guidance

## Data Protection

The Supplier shall (and shall procure that any of its employees and agents involved in the provision of the Contract shall) comply with any notification requirements under the Data Protection Act 2018 (“DPA”) and shall duly observe all its obligations under the DPA which arise in connection with the Contract.

Where the Supplier is processing Personal Data as a Data Processor for the Council, the Supplier shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the DPA: and

- provide the Council with such information as the Council may reasonably
- required to satisfy itself that the Supplier is complying with its obligations under the DPA;
- promptly notify the Council of any breach of the security measures required to be put in place pursuant to this clause; and
- ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council’s obligations under the DPA.

The provisions of this clause shall apply during the continuance of the contract and indefinitely after its expiry or termination.

The Service Provider shall and shall ensure that its Sub-contractors shall notify the Council within five Working Days if it receives:

- a request from a Data Subject to have access to that person’s Personal Data; or
- a complaint or request relating to the Council’s obligations under the DPA or any other data protection legislation.

## 1.2.10 Assignment of Contracts without Consent

There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have transferred or assigned, whether directly or indirectly, the benefit of the contract without the written consent of the Council, or if the contractor shall have

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sub-let the contract (except so far as the sub-letting relates to the supply of patent or proprietary articles, raw materials or natural products) without the written consent of the Council

## 1.2.11 Contract Extensions

Officers must consider a contractor's performance throughout the period of contract when considering a contract extension. Officers must question not only the financial aspects of any potential extension, negotiating with the contractor where possible to achieve a competitive financial offering, but must also give thought to whether the quality of supplies or service being provided to the Council would continue to offer best value to the Council should an extension be offered. Officers must be aware that markets, the providers within those markets, and the level of competition for Council business will change over periods of time.

Officers must consider alongside the award of any optional extension period, what other alternatives may be available to the Council and must offer reasoning as to why such alternatives are not proposed. Officers must ensure that prior to seeking approval of any proposed contract extension; consultation is undertaken with Assistant Director Corporate Resources & Customer Services (Strategic Support), in order to secure a Procurement perspective.

An extension requires the approval of an Assistant Director, Cabinet Member or Cabinet according to the applicable financial thresholds detailed herein.

The value of any contract extension must be calculated in line with Rule 1.1.7.

In terms of compliant process Contracts may be extended beyond the stated core contract period, where provision for such extension was included in the original Invitation to Tender (ITT), or Request for Quotation documents (RFQ), and in respect of EU Procurements, in the OJEU Contract Notice.

In cases where an extension period was not provided for within original ITT, or RFQ documents and in respect of EU Procurements, in the above Public Contract Regulations Contract extension of contracts with a value below the applicable Public Contract Regulations Spend Threshold will require the written approval of the appropriate Assistant Director, Cabinet Member, or Cabinet, following consideration of a written report setting out a justifying business case.

Where the value of expenditure is such that a Public Contract Regulations Spend Threshold would be exceeded then it is not possible to award a long term contract Extension.

Extension on a short term basis will only be authorised in exceptional circumstances. In circumstances where a short term extension is granted, a Public Contract Regulations compliant procurement process must be carried out as a matter of urgency in order to secure a replacement contract. Such action must be considered in consultation with the relevant member of the Procurement Team and the Assistant Director and must be articulated in a waiver.

Wherever possible officers must endeavour to plan the necessary pre-procurement reporting, and subsequent procurement activity, in ample time to allow a replacement contract to be secured

negating the need for an extension. Consideration must be given to the mobilisation period and obtaining TUPE related information where relevant.

## 1.2.12 Monitoring of Contracts

All contracts must be monitored by the service area throughout the period of the contract, and the performance of contractors and social value outcomes must be reviewed regularly. Appropriate records of contract monitoring and contractor performance shall be maintained by the relevant service area.

## 1.2.13 Conflict of Interest

All Officers acting as evaluators on a procurement process shall ensure they have an understanding of the Employees Code of Conduct and declare any potential Conflicts of Interest before commencing on the evaluation of a tender responses.

### [Employees Code of Conduct](#)

## 1.3 COLLABORATIVE ARRANGEMENTS

### 1.3.1 Framework Agreements / Dynamic Purchasing System (DPS)

Contract Procedure Rules 2.1 to 2.3, and 3.1 will not apply where the supplies, works or services in question are to be procured by using a framework agreement or Dynamic Purchasing System (DPS) which itself has been procured through compliance with these Contract Procedure Rules or from a Central Purchasing Body for the purposes of the Public Contracts Regulations.

Where a Central Purchasing Body's framework agreement is used for the first time the Procurement Team shall obtain copies of that Body's Contract and Award notices and shall confirm the Body's compliance with the Public Contracts Regulations.

### 1.3.2 Joint or Partnering Arrangements, Procurement of Consultants

#### 1.3.2.1. Partnering Arrangements

A memorandum of understanding must be developed with partners to ensure that resources, support and delivery will be available throughout the development and lifetime of the proposed contract.

A single contract may be delivered by several providers. Partnering involves an integrated team working together to deliver better services to citizens through agreeing mutual objectives, devising

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a way for resolving any disputes and committing themselves to continuous improvement, measuring progress and sharing the gains.

All parties have a shared goal of delivering services in a cost-effective and timely way that is mutually beneficial.

Partnering arrangements are likely to be contractually based and will need to comply with these Contracts Procedure Rules.

Partnering Arrangements will be entered into ONLY after an appropriate competitive procurement process has identified potential partners and they have been evaluated from a competitive and best value perspective.

Partnering Arrangements will need to identify the following:

- responsibility for each function to be performed,
- the element of risk undertaken by each party,
- the mutual benefits derived from the partnership,
- the individual targets and objectives of the partnership,
- the procedure for reviewing the performance of the partnership,
- the procedure for remedying disputes and the settlement of grievances (including arbitration if required),
- the period for maintaining the partnership,
- the exit procedure at termination of the partnership, which must
- include the responsibility for staff, premises, service provision, and
- any other relevant matters.
- implications for Social Value, in terms of local supply, employment

## 1.3.2.2. Joint Procurement

Any joint procurement activity with other local authorities or public bodies, including Membership or use of Purchasing Consortia, shall be agreed via Pre-Procurement Reporting requirements as outlined within 1.10.1.

The Council may also enter into existing public sector framework arrangements, where it is evident that such frameworks represent the optimum solution to the Council in terms of service and cost.

Where any expenditure is committed using standard arrangements such as an accessible framework contract with another local authority, government department, statutory undertaker, public service purchasing consortium or government approved catalogue of procurement sourcing, Officers must be reasonably satisfied that the appropriate procurement procedures have been followed by the body concerned and consider appropriate use of the facility i.e. straight forward call-off, or mini competition.

- Where the Council is working in a joint or partnering arrangement with another body or bodies and, under that arrangement, is the commissioning body, Sefton Council's Contracts Procedure Rules shall apply to contracts entered into under that arrangement.
- Where the Council is working in a joint or partnering arrangement with another body or bodies and, under that arrangement, another body is the commissioning body, the Contracts Procedure Rules, or equivalent, of that other body shall apply to contracts entered into under the arrangement subject to the approval of a waiver by the Cabinet Member (Regulatory, Compliance & Corporate Services). Where the body has no such Contracts Procedure Rules, the procedures applied by the other body shall comply with the principles and safeguards contained in Sefton Council's Contracts Procedure Rules, and this must be documented in the Terms and Conditions of the Contract.
- Where the Council is working in a joint or partnering arrangement with another body or bodies, the Terms and Conditions for the arrangement shall include powers for the Council to have access to the records, assets, site, employees and sub-contractors of that other body for the purposes of investigating or auditing compliance with the terms of the arrangement and with the relevant procurement rules.

### 1.3.2.3 Procurement of Consultancy Services

Establishment Control Panel approval must be sought prior to commencement of any procurement activity to secure individual consultancy posts.

For the avoidance of doubt, if a Client Officer wishes to procure a consultancy services contract which will require a series of subject matter experts to deliver the contract, and that there is flexibility for the potential Supplier to substitute staff, and there is no right of control (as the Supplier is free to deliver the requirements in the methodology they deem most appropriate) and there is no expectation of the Suppliers employees working exclusively for the Council, then there is no requirement to gain approval of the 'Establishment Control Panel' prior to commencing the procurement of the services contract.

Client Officers are reminded that the procurement of any consultancy posts is ultimately subject to scrutiny by the 'Establishment Control Panel'. Any Officers procuring Consultancy Services must comply with all aspects of these Contract Procedure Rules in first sourcing any consultant through a competitive process to ensure best value

Advice must be sought from Central Procurement as to an appropriate competitive process in respect of these Contract Procedure Rules. Any related procurement activity must comply with off-payroll working rules.

## 1.4 E-PROCUREMENT

### 1.4.1 Electronic Procurement

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Officers must employ an electronic procurement method and shall use only the Council's electronic opportunities portal approved by the Assistant Director Corporate Resources & Customer Services (Strategic Support), in consultation with the Executive Director of Corporate Resources and Customer Services.

The only exception to this rule shall be where an officer is using an external framework, the use of which has been approved in accordance with CPR 1.3.1. In such circumstances the procurement work shall be carried out in compliance with the rules of the framework as determined by the framework owner.

## 1.5 RECORDS

### 1.5.1 Contracts Register

As part of the Government's Transparency Agenda the Council is required to compile a Contracts Register to capture details of all contracts let by the Council.

All procurement opportunities published on the Council's approved electronic opportunities portal will have the contract award details automatically promoted to the online contracts register, where the contract is valued at £5,000 or above, in line with the Government's transparency agenda.

Where a procurement has not be run through the e-sourcing platform 'The Chest' it is the Client Officers responsibility to complete the Contract Register Form. Advice on completion can be gained from the Procurement Team.

Where the procurement has been run through the e-sourcing platform 'The Chest' a member of the Procurement Team will manage the creation of the Contract Register entry through 'The Chest'. For contracts let via a waiver it is mandatory for the service team to provide a copy of the contract to the Procurement Team so that it can be held on the 'The Chest'.

[Contract Register Form](#)

[Contract register link](#)

The Contract Register will be reviewed and updated on a regular basis, this review should also inform forward planning and identify opportunities to maximise value for money and social value. Assistant and Executive Directors are responsible for ensuring an accurate record of contracts for their service areas, the Procurement team will maintain the Contract Register.



## 1.6 INTENTION & AWARD OF CONTRACT AND DEBRIEFING OF CONTRACTORS

### 1.6.1 Award Criteria

Contracts will generally be awarded on the basis of either:

- **MEAT** (*Most Economically Advantageous Tender*) taking into consideration a percentage balance between Cost and Quality, or
- **Lowest Cost** (*\*NOTE: Whilst 100% Lowest Cost evaluation is permitted in below Public Contract Regulations threshold procurement exercises, Lowest Cost evaluation is only permissible in Public Contract Regulations procurement exercises, where the bidders are first required to meet a*
- *minimum specification of Supplies, Services or Works*)
- **Highest Quality** (*NOTE: within Public Contract Regulations Procurements 100% Quality Evaluation is only permissible where the Council publishes a fixed cost that it will pay to any successful bidder, and so the competition is carried out on Quality only*)

The Assistant Director, or their representative, must define Award Criteria appropriate to the procurement or commission. Commissioners are reminded that achieving value for money in public procurement remains focused on securing from contractors the best mix of quality and effectiveness to deliver the requirements of the contract, for the least outlay over the period of use of the goods or services bought. Commissioners do not have to select the lowest price bid, and that in setting the procurement strategy, drafting the contract terms and evaluating tenders they can and should take a broad view of value or money that includes the improvement of social value.

Award criteria must be designed to secure an outcome giving best value for money for the Council. If further defined within sub criteria, then these must refer only to relevant considerations, and importantly all award and award sub criteria must be openly published within Invitations to Tender (ITT) or Requests for Quotation (RFQ), documentation, as applicable.

If award or award sub-criteria, and applicable weightings are not openly published within the Procurement documentation then they **cannot** be employed within the evaluation process.

The Client, Commissioning, and Procuring Officer are advised to consider the desired outcome of a Commissioning / Procurement exercise, in order to determine a suitable method of evaluation.

Options entail:

**Cost / Quality** – In this method 100% is divided across cost and quality.

The Commissioner/Procurer must determine an appropriate split commensurate with available budget and desired quality levels (quality meaning, product quality, or service quality, or a combination of the two).

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Examples could include:

- 40% Cost, 50% Quality, 10% Social Value
- 30% Cost, 60% Quality, 10% Social Value
- Or any other derivative the Commissioner/ Procurer deems appropriate.

**Cost only** – In this method, evaluation is carried out on the basis of 100% Cost, where the bidder meets a pre-determined minimum standard of quality.

Only the bidder's Cost will be evaluated, i.e. an increased quality offering above the pre-determined minimum is not acknowledged as providing any additional value because the minimum specification is sufficient for the Council's needs.

**Quality only** - In this method, evaluation is carried out on the basis of 100% quality, where the Commissioner/ Procurer identifies and publishes a fixed cost that will be committed in full, irrespective of which bidder is awarded the contract. Only the bid quality will be evaluated with an award being made to the bidder demonstrating the highest quality submission for the budget that the Council intends to commit. Bids with Costs exceeding the published budget would be regarded as non-compliant, and so not evaluated.

Evaluation criteria and respective weightings shall be predetermined and clearly indicated in the Pre-Procurement Report and Invitation to Tender (ITT) or Request for Quotation (RFQ) documentation. In addition, the criteria shall be strictly observed at all times throughout the procurement exercise by any officer involved in the evaluation process, so as not to expose the Council to risk of challenge through deviation from the published criteria and weightings.

If in an exceptional case, prior to the receipt of bidder's proposals, this is changed, this must be duly approved (i.e. as per the original pre-procurement approval path). In no circumstance must the award / evaluation criteria be changed post receipt of bidder's proposals.

## 1.6.2 Acceptance of Tenders / Quotations

It shall be clearly stated in all tender / quotation documents that the Council reserves the right:

- to accept a tender / quotation other than the lowest
- to decline to accept any tender / quotation
- not to award a contract
- for the Council will not be liable for any costs or expenses incurred by Tenderers during the procurement process

Where a bidder's tender / quotation is not accepted then a formal written record must be made detailing the reason/s why.

## 1.6.3 Debrief – Intention & Award



## **Mandatory Standstill Period** (*historically known as the 'Alcatel' process*)

It is a requirement under the Public Contracts Regulations that any procurement exercise carried out must be concluded with a Mandatory Standstill Period. The purpose of the standstill period is to inform all bidders of the outcome of the procurement exercise, and, if they think that the contract award decision is wrong, to provide bidders with an opportunity to challenge the decision before contract has been awarded, signed and sealed.

The applicable legislation allows bidders to question the procurement exercise and evaluation process within the standstill period of 10 calendar days (where electronic communication has been employed) following dispatch of the award decision letter and commence a formal legal challenge to prevent the contract from being awarded should they have grounds to do so.

Once the contract award decision has been approved by the officer with appropriate delegated authority, as authorised in any pre-procurement report, a letter must be sent to all bidders, providing written feedback to all unsuccessful bidders as to why their bid was unsuccessful and the relevant advantages and characteristics of the successful bid compared to the unsuccessful bidder.

If in any doubt as to the application of the Mandatory Standstill Period then the Corporate Procurement Unit must be contacted for guidance.

### **IMPORTANTLY:**

Officers must be mindful of a challenge to an award decision and the implications that can result must that not be handled appropriately, specifically in relation to areas such as increased cost and workload to the Council and its Officers, alongside potential for reputational damage must the Council mishandle such a situation.

Where a challenge to an award decision arises Officers must at the very least ensure that:

- Verbal communication with challenging bidder/s or their representative/s is not entered into. This includes avoidance of face to face debrief meetings that can become emotionally driven, and result in 'on the spot' responses being given to questions asked without such a response being correctly
- researched, quality checked and considered.
- Communication with the challenging bidder/s or their representative/s is only carried out in writing via the Council's electronic opportunities portal
- Written responses are quality checked for accuracy and content
- Opinion is sought from the Council's Legal team

The issue is escalated to an appropriate Senior Officer for opinion In respect of contracts established where expenditure falls below Public Contract Regulations spend Thresholds, mindful of the Procurement principles of Openness, Fairness and Transparency, Officers must use discretion as to what degree of debrief is provided, but must endeavour to provide meaningful

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feedback that enables bidders to understand where a submission could have been stronger, in order that future proposals may be improved.

## 1.7 CONTRACT PAYMENTS

### 1.7.1 Contract payments/settlements

Contract payments/settlements shall be made in accordance with procedures referred to in the Financial Procedure Rules.

#### Financial Procedure Rules (within the Council's Constitution)

The terms upon which the Council will make payments to a contractor must be detailed within the applicable contract.

### 1.7.2 Prompt Payment within 30 days

The Public Contracts Regulations require a Contracting Authority to include a clause in all public contracts providing that invoices submitted by the contractor shall be verified in a timely manner and payment of undisputed invoices shall be made within 30 days.

Where the contractor enters into a sub-contract the prompt payment provisions must be replicated down the supply chain.

Where a contract contains terms requiring payment more quickly than 30 days (for example because of statutory requirements, or because the parties choose a shorter payment period) then these shorter payment periods will apply to that contract.

#### Sefton Payment Acceleration Scheme.

The Sefton Payment Acceleration Scheme is a programme to allow suppliers to provide a discount for payment earlier than 30 days. The Scheme should be included in all tenders unless there is justification for not including it within the procurement process (for example restrictions in Grant conditions). Any requirement to bypass the Sefton Payment Acceleration Scheme must be justified in the Pre Procurement Report and agreed in consultation with the Section 151 Officer.

### 1.7.3 Instalment Payments

Where contracts provide for payment to be made by instalments the appropriate Assistant Director shall maintain suitable records to show the state of account on each contract.

## 1.7.4 Authorisation of Payments

Payment to contractors shall be authorised by an authorised certifying officer in accordance with the Department's Scheme of Delegation.

## 1.7.5 Authorisation of Variations

Officers must consult the Legal Team in respect of any proposed variation, as consideration will need to be given as to whether a proposed variation would constitute a 'material change' to the original contract, necessitating a new procurement. If changes are 'material' then this can put the entire agreement at risk of cancellation, if challenged.

Viable variations to a contract shall be made in writing and shall require prior written authorisation by the appropriate Assistant Director or on their behalf by an authorised certifying officer.

Where the Contract in question has been formally sealed by the Legal team, then in respect of such variation the sealed contract copy will need to be updated to account for the variation.

## 1.7.6 Works Contracts – Final Certificate control

No payment shall be made by the Council to the contractor without formal purchase order/formal agreement in place. This must be facilitated by processing a purchase order onto primarily the Council's financial system, Agresso, or the relevant operational system, against which invoices and payments can be processed and monitored.

In the case of Works contracts a final certificate shall not be issued until the Assistant Director has, to the extent that it is felt necessary, examined all matters relating to the final account.

## 1.7.7 Payments before Completion of Formal Contract

No payment shall be made by the Council to the contractor without a formal purchase order / formal agreement in place and will only happen following the provision of supplies, services, or works.

Advance payments are not permitted, except small emergency payments in exceptional circumstances with prior authorisation through the Waiver Process set out in these Contract Procedure Rules.

## 1.7.8 Signed Contracts

Contracts shall be signed on behalf of the Council by a duly authorised officer in accordance with the Scheme of Delegation for Officers

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## 1.8 WAIVER OF CONTRACTS PROCEDURE RULES

### 1.8.1 - Waiver document

Link to electronic waiver form: <https://forms.sefton.gov.uk/contracts waiver/>

- (a) Where any operational officer is seeking a waiver of any of the Council's Contract Procedure Rules, approval for that waiver must be secured from the Assistant Director within whose remit the procurement or contract sits
- (b) Where an Assistant Director is seeking a waiver then this application should be submitted to an Executive Director.
- (c) Where an Executive Director is seeking a waiver then this application should be submitted to the Chief Executive Officer
- (d) When seeking a waiver of any of the Council's Contract Procedure Rules, the relevant officer shall complete a formal Waiver Request Report in accordance with the procedure set out below. The Waiver Request Form will be reviewed by the Procurement Service Manager to ensure compliance prior to being submitted to the Assistant Director within whose remit the procurement or contract will sit. This Waiver Request Report shall clearly state:
  - | the particular Contracts Procedure Rule/s to be waived
  - | the period of time during which the waiver shall be effective and related value of expenditure for this period
  - | Budget Approval – include Budget, Funding and Cost Centre Code
  - | Business Case in support of the waiver which must include details of how the following would be achieved despite the waiver:
    - i. Value for Money
    - ii Transparency, propriety and accountability
    - iii. Position of the contract under the Public Contracts Regulations 2015
    - iv. How the contractor was selected
    - v. Identification of potential project risks and controls
    - vi. How the project links with departmental and corporate objectives
    - vii. Whole life costs of the project including the revenue costs associated with the project
    - viii Social Value Benefit
- (e) When considering any request for a waiver of any of the Contract Procedure Rules the relevant Assistant Director shall seek any necessary advice and guidance from the

Procurement service, Legal service, Finance service or any other specialist team before determining the waiver request.

A list of goods or services may be attached to a waiver where each item on the list is categorised as “low risk” and “low value” relating to a specific event for up to a total combined value of £20,000. The assessment of risk must be carried out by the Procurement Service Manager when reviewing the waiver and by the Assistant Director at final approval stage of the process. For example, a fire eater at an event may be regarded as medium risk while aircraft at an airshow would be regarded as high risk. Both of these examples would require an individual waiver, where it is appropriate to raise one.

- (f) The Assistant Director **MUST** e-mail a copy of the signed waiver form to [central.procurement@sefton.gov.uk](mailto:central.procurement@sefton.gov.uk) to be archived.
- (g) Where any Contracts Procedure Rules are waived, the relevant Officer shall comply with the remaining Contracts Procedure Rules

## Contracts register form

## 1.9 PROCUREMENT RISK ASSESSMENT

Early engagement of the Procurement Team in any procurement process is essential as that enables the team to effectively resource plan and allocate support.

The member of the Procurement team identified will support the development of the Pre Procurement Report that a Client Officer needs to compile and submit in order to secure approval to commence a procurement exercise.

The Procurement Risk Assessment enables the Client Officer to set out the building blocks of the requirement which will enable the Procurement Team to contribute to appropriate documentation. This can be found on the intranet and is an online submission.

Officers completing the Procurement Risk Assessment form must seek guidance from their Management or the Procurement Team as to the circumstances in which financial checks should be requested. For example, contracts which are mostly likely to exceed the period of one year and can be considered a medium to high risk to the Council, should have financial checks carried out to confirm the sustainability of the business for the life of the contract.

### **PROCUREMENT RISK ASSESSMENT**

Procurement Officers are required to upload a copy of the Procurement Risk Assessment to the Council's opportunities Portal as a supporting document for that specific procurement exercise.

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## 1.10 EXPENDITURE APPROVAL PROCESS – PRE PROCUREMENT REPORTING

### 1.10.1 Pre-Procurement Reporting

All officers requiring committing expenditure in order to acquire Supplies, Services or Works on behalf of the Council, or a Collaborative group of Councils if in the lead role, must first consider Approval to Commit Expenditure and so to commence the procurement process. In doing this, officers must consider Financial Procedure Rules and any relevant budget approval process and must refer to the Executive Director of Corporate Resources and Customer Services where necessary.

It is a requirement of the Chief Executive Officer and the Elected Members that approval to commit expenditure be considered, prior to commencement of any Procurement activity as follows:

(a) Expenditure of £20,000 up to £150,000 - a Pre Procurement report is to be taken to the Officer's Assistant Director

(b) Expenditure of £150,001 up to:

i) 3 x the OJEU Spend Threshold for Supplies & Services

(i.e. £537,261 as of 1 January 2024), or

ii) The Spend Threshold for Works (i.e. £4,477,174 as of 1<sup>st</sup> January 2024)

– a Pre Procurement report is to be taken to the Officer's Cabinet Member to seek approval to commence Procurement activity and so commit expenditure.

(c) Expenditure of:

i) Over 3 x the Spend Threshold for Supplies & Services (i.e. £537,261 as of 1<sup>st</sup> January 2024), or

ii) Over the Spend Threshold for Works (i.e. £4,477,174 as of 1<sup>st</sup> January 2024)

– A Pre Procurement Cabinet report is to be taken to Cabinet to seek approval to commence Procurement activity and so commit expenditure. Note that delegated authority to award any subsequent Contract which meets the objectives laid out in the Cabinet Report can be given to a Chief Officer, providing the Cabinet Report specifically details the parameters of that delegated authority.

NOTE: The **ONLY** exception to this rule shall be where a prospective procurement satisfies the requirements of a 'Key Decision' as defined in the Constitution.

Where a prospective procurement is determined to be a Key Decision then this will need to be entered onto the Forward Plan. Officers must be mindful in such circumstances to plan additional time into the procurement process.

A Key Decision relating to a prospective procurement will be considered by Cabinet within a Pre Procurement report.

A Pre-Procurement Report is usually created using the Chief Officer Report Template, except where the report requires Cabinet Approval, where a Cabinet Report is produced.

Pre Procurement reports must set out: -

- i) The brief details of the Procurement exercise and the Procurement method to be employed
- ii) The basis of evaluation,
- iii) A request that authority be delegated to a nominated officer, such as an Assistant Director, or one of their officers, to approve the resulting post procurement contract award.

The following illustration summarises the Pre Procurement expenditure approval process that these Contracts Procedure Rules detail.

## **1.10.2 Pre-Procurement Approval specifically in respect of Adult's or Children's Social Care support packages and placements, and Substance Misuse Residential Rehabilitation placements**

It is recognised that some individual adult and child care or support packages and placements, and some substance misuse residential rehabilitation placements cannot be fulfilled using existing Framework Agreements or Dynamic Purchasing systems and, on these occasions, will need to be procured from the open market.

It is also recognised that in many cases, due to ongoing care requirements, the end date of such contracts cannot be identified at the point of procurement. In such circumstances, and in accordance with the Public Contract Regulations, a period of 4 years should be used to calculate the contract value.

On occasion the anticipated value of these contracts may exceed the normal delegated authority of Assistant Director, and in certain circumstances Cabinet Member too, however due to the restricted amount of time available to procure these often urgent individual care or support service packages, it would not be possible or desirable to always obtain Cabinet Member or Cabinet Pre-Procurement approval.

Consequently, specific provision is made herein and within the Council's Constitution to delegate authority in such circumstances to the relevant senior officers, currently:

- Director of Public Health
- Assistant Director of Adult Social Care,
- Executive Director of Children's Services Assistant Director, Cared For Children
- Assistant Director, Help and Protection and Early Help
- Assistant Director Children's Services (Education)



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to:

- a) approve the commencement of a procurement process for Adult or Children's social care contracts or Substance Misuse Residential Rehabilitation placements which are outside the scope of an existing Framework, Dynamic Purchasing System or other budgetary agreement;
- and
- b) to award contracts following a procurement exercise, and so commit expenditure. To ensure that such procurement is effectively monitored, a report of Adult and /or Children's delegated procurement approvals will be submitted to the relevant Cabinet Member on a regular basis.

## **What level of pre-approval is required in respect of Contract Value?**

(Officers must ensure that you read and understand The Contract Procedure Rules and do not simply refer to this illustration alone)

### **FOR EXPENDITURE OVER £50,000 - DECISION PUBLISHED ONLINE**

(by Democratic Services via Intranet and Internet)

**£20,000 up to £150,000**

#### **Assistant Director Responsibility & Accountability**

Pre Procurement Chief Officer Report

**£150,001 up to:**

- i) 3 x the Spend Threshold for Supplies & Services (i.e. £537,261 as of 1<sup>st</sup> January 2024),**
- or**
- ii) The Spend Threshold for Works (i.e. £4,477,174 as of 1<sup>st</sup> January 2022)**

#### **Cabinet Member Responsibility**

Pre Procurement Cabinet Report

**Expenditure Over:**

- i) 3 x the Spend Threshold for Supplies & Services (i.e. £537,261 as of 1<sup>st</sup> January 2024),**
- or**
- ii) The Spend Threshold for Works (i.e. £4,477,174 as of 1<sup>st</sup> January 2024)**

#### **Cabinet Responsibility**

Pre Procurement Cabinet Report

### **KEY DECISION**

**Cabinet Responsibility** - Pre Procurement Report (as determined by Key Decision definition)



# PART 2: CONTRACTS EXCEEDING THE APPLICABLE SPEND THRESHOLDS

## 2.0 Application

Part 2 of these Contracts Procedure Rules shall apply to all contracts exceeding applicable spend thresholds in value, and officers must adhere to the Public Contracts Regulations European Union spend thresholds (for the whole value of the contract including any optional periods) are as follows: -

- a) Supplies / Services - **£179,087 excluding VAT**
- b) Works – **£4,477,174 excluding VAT**

*Note: Spend threshold figures correct as of 1<sup>st</sup> January 2024, but subject to ongoing change, ordinarily on a two year cycle. Updated details of changes in threshold figures will be published on the [Procurement website](#).*

*'Works' means any of the activities specified in schedule 2 of the Public Contracts Regulations. The contents of schedule 2 can be viewed here: - [2015 Public Contracts Regulations](#)*

## 2.1 Forms of Procurement

2.1.1 There are four main forms of procurement available for contracts exceeding European Union Spend Thresholds: -

- (a) Open Procedure Tendering
- (b) Restricted Procedure Tendering
- (c) Direct Call Off from a Framework
- (d) Mini competition within a Framework or a Dynamic purchasing System

Other procurement procedures include Competitive Procedure with Negotiation, Competitive Dialogue and Innovation Partnership. These other procedures are for use in complex contracts or limited circumstances where a solution is not readily available in the market.

2.1.2 Procurement of services which are classified as falling within Schedule 3 – 'Social and Other Specific Services' of the Public Contracts Regulations, must be considered against a higher European Union spend threshold (for the whole value of the contract including any optional periods) of:

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## **£552,950 excluding VAT**

*Note: Spend threshold figure correct as of 1<sup>st</sup> January 2024, but subject to ongoing change, ordinarily on a two year cycle. Updated details of changes in threshold figures will be published on the [Procurement website](#).*

Where this spend threshold is exceeded officers shall follow the applicable, and Schedule 3 specific, 'Light Touch Regime' with the assistance of Officers of the Corporate Procurement Unit

2.1.3 This process shall not remove or modify the responsibility of the relevant Assistant Director to take such steps as may be reasonably necessary to safeguard the Council's interest.

2.1.4 In order to determine a suitable procurement approach to a specific market, officers may first engage with the Procurement team to carry out non-committal soft market testing in order appreciate the level of interest, and numbers of providers that exist in a particular market. This must be conducted in a way that competition isn't distorted. If a Procurement process is then required, a level playing field between bidders MUST be maintained.

2.1.5 For all above threshold tenders The Council shall give public Contract Notice of its intention to enter into such arrangements. Such Contract Notice shall be published electronically, within Find a Tender and Contracts Finder, via its electronic opportunities portal.

### [Find a tender](#) [Contracts Finder](#)

2.1.6 For all above threshold tenders The Assistant Director's evaluation panel, shall evaluate all submissions using the award criteria and weightings in the published tender documents and the Procurement Team shall maintain a copy of the marked evaluation and moderation matrix

## 2.2 Open Procedure Tendering

2.2.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced, and where the applicable spend thresholds detailed in Contracts Procedure rule 2.0 are exceeded.

2.2.2 Commissioners and/or Procurement Officers shall follow an Open Procedure specifically where the market for the requirement is identified as limited in terms of supplier numbers, and so the number of submitted bids is likely to be low.

Within an Open procedure, the opportunity must be made available to the marketplace for a minimum of 30 calendar days.

2.2.3 The Contract Notice shall state the nature and purpose of the proposed contract, it shall provide interested providers with an electronic Invitation to Tender (ITT) document setting out particulars of the contract into which the Council wish to enter, together with specification,

standard and special terms and conditions, the award criteria and weightings, the closing date for tenders, the Council's requirements as to the procedures for submission of tenders, and invite providers to submit a completed ITT proposal within the specified period stated in the public notice.

## 2.3 Restricted Procedure Tendering

2.3.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced, and where the applicable spend thresholds detailed in Contracts Procedure Rule 2.0 are exceeded Commissioners and/or Procurement Officers shall follow a Restricted Procedure specifically where there is likely to be a substantial number of providers in the marketplace and so a high number of responses would be expected, or the supplies, works or services are of a specialist nature.

2.3.2 The procedure is a two stage process. The first stage is a Selection stage and allows the Commissioner / Procurer to restrict the marketplace. Within a Restricted procedure the opportunity must be made available to the marketplace for a minimum of 30 calendar days.

2.3.3 A shortlist of providers is created at selection stage by using a standard Selection Questionnaire (SQ) to evaluate and score minimum requirements that contractors must meet. Importantly such requirements must be relevant and proportional to the contract in question. The minimum period of time that must be afforded to shortlisted bidders, within a restricted procedure, at Invitation to Tender (ITT) stage is 25 calendar days.

2.3.4 The Contract Notice shall state the nature and purpose of the proposed contract, it shall provide interested providers with an electronic Selection Questionnaire (SQ) document setting out particulars of the contract into which the Council wish to enter, together with the selection criteria and weightings, the closing date for submission of SQ's and the Council's requirements as to the procedures for submission of PQQ's, and invite providers to submit a completed SQ proposal within the specified period stated in the public notice.

2.3.5 At the second stage of the procedure, the Award stage, Invitations to Tender (ITT) for the contract shall, where possible, be sent to not less than five of the highest scoring providers who expressed an interest in tendering and submitted a SQ within the specified timescale, and that have met the minimum requirements.

2.3.6 The ITT documents must state the particulars of the contract into which the Council wish to enter, together with specification, standard and special terms and conditions, the award criteria and weightings, the closing date for tenders, the Council's requirements as to the procedures for submission of tenders and invite providers to submit a completed ITT proposal within a specified period.

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## 2.4 Direct call off from a Framework

2.4.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced. Where an officer identifies a pre-tendered compliant framework, whether that be owned by Sefton Council, or owned by an external organisation but available to the Council, then where such a framework allows, and in line with the requirements laid down above, a direct call off may be made and a purchase order placed with an organisation that represents best value against the requirement, negating the need for a procurement exercise.

## 2.5 Mini competition within a Framework / Dynamic Purchasing System (DPS)

2.5.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced. Where an officer identifies a pre-tendered compliant framework or DPS, whether that be owned by Sefton Council, or owned by an external organisation but available to the Council, and such a framework or DPS has a requirement to further compete for an award of business, a mini competition must be carried out. This will require the creation of an Invitation to Tender (ITT) document which is issued to all Framework or DPS providers. setting out particulars of the contract into which the Council wishes to enter, together with the award criteria and weightings, the closing date for tenders, the Council's requirements as to the procedures for submission of tenders and invite providers to submit a completed ITT proposal within an appropriate period as defined by the Client Officer.

## 2.6 Invitations to Tender and Interim Custody of Tenders

2.6.1 All Invitations to Tender shall include the following:

- (The Council will only be issuing and receiving Invitations To Tender electronically. Tenders submitted by any other means shall not be considered.
- A requirement for tenderers to complete fully and sign or otherwise authorise the Form of Tender,
- All electronic responses will be held within a secure online sealed tender box that is only accessible by the appointed Verifier after the specified fixed time and date.
- All Invitations to Tender must specify the supplies, works or services that are required in sufficient detail to enable the submission of competitive offers, together with the terms and conditions of the contract that will apply.
- A description of the Award Procedure and a definition of the Award Criteria in objective terms and in descending order of importance with weightings.
- Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's risk and expense

- Notification that amendments must not be made to the contract documents by the tenderer

2.6.2 A record of tenders received in pursuance of these Contracts Procedure Rules shall be recorded within the Council's electronic opportunities portal or where appropriate a secure storage folder, maintained by the Procurement Team.

2.6.3 An electronic contract register will be maintained by the Procurement Team and circulated to the Strategic Leadership Board by the Assistant Director Corporate Resources & Customer Services (Strategic Support) on a regular basis.

## 2.7 Closing Date for Receipt of Tenders

2.7.1 Tenders received within the Council's electronic opportunities portal, after the predetermined close date and time, will not be considered.

2.7.2 Tenders received within the Council's electronic opportunities portal after the predetermined close date and time will not normally be considered. Any exceptional circumstances which may be deemed acceptable shall be detailed in a Waiver Request Report, accompanied by evidence, for consideration by the Procurement Service Manager and the Assistant Director.

## 2.8 Method of Opening Tenders

2.8.1 In respect of tender submissions received electronically, ONLY a Verifying officer as designated within the Council's electronic opportunities portal will have permission to open online sealed tender submissions.

## 2.9 Evaluation of Tenders

### 2.9.1 Evaluation and Award *(for above threshold procurements)*

2.9.1.1 Commissioners are reminded that achieving value for money in public procurement remains focused on securing from contractors the best mix of quality and effectiveness to deliver the requirements of the contract, for the least outlay over the period of use of the goods or services bought. Commissioners do not have to select the lowest price bid, and that in setting the procurement strategy, drafting the contract terms and evaluating tenders they can and should take a broad view of value or money that includes the improvement of social value.

2.9.1.2 Tenders shall be evaluated and awarded on the basis of the value for money they offer to the Council in line with either: -

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- MEAT (*Most Economically Advantageous Tender*) Principles. Criteria must be relevant to the contract and apportioned between Cost and Quality in a ratio reflecting the risk and value of the contract

or

- Lowest Cost. The Council must publish a minimum specification of Supplies, Services or Works which bidders are required to meet

or

- Highest Quality. The Council must publish a fixed cost that it will pay to any successful bidder, and so bidders are evaluated on the highest quality that can be provided for that fixed cost as determined and documented in advance of Tenders being invited.

2.9.1.3 Tenders shall be evaluated and awarded in accordance with criteria and weightings set out in the Procurement Documentation and must not be changed at any time during the process. Should the Cost element of a tender evaluation involve a Cost Model, Basket of Goods, or Basket of Works, then consideration must be given, ahead of commencing the procurement exercise, to publishing that detail within the procurement document. Where it is felt inappropriate to publish the detail then officers must consider lodging that detail with the Legal team for the duration of the bidding period and only access the detail once the bidding period has closed. Where a Cost Model, Basket of Goods or Basket of Works is employed in the Cost Element of an Evaluation, the content **MUST NOT** be changed once bids are received.

## 2.9.2 Evaluation Panel

2.9.2.1 Evaluation Panels must be established prior to the issue of the Invitation to Tender documents, to ensure that they are engaged with the process and understand the evaluation criteria and weightings.

2.9.2.2 Evaluation Panels must include representation from the client department/key stakeholders and must consist of a minimum of two operational officers or external evaluators in addition to any procurement officer.

2.9.2.3 Where an Interview / Presentation session has been planned into an evaluation, the evaluation panel members must be consistent with the panel members that have undertaken other elements of the evaluation. Ahead of any Interview / Presentation session, evaluation panel members must ensure that they are familiar with the content of the tender submissions of the bidders invited to that session. All interview / presentation sessions must be attended by a member of the Procurement Team to ensure compliance to the evaluation approach.

## 2.9.3 Evaluation Matrix

2.9.3.1 The Evaluation Matrix will consist of defined evaluation criteria and weightings. Marks and scores must be brought through from the ITT document to reflect what is material to the award of a particular contract.

2.9.3.2 criteria shall have a number of marks allocated to signify to tenderers the relative importance of each criterion.

2.9.3.3 Scores – All bids must be scored consistently against a scoring scheme which must be included in the Invitation to Tender. IMPORTANTLY evaluation panel members cannot employ any scoring scheme which differs from the scoring scheme published in the ITT document. For example, panel members must not introduce half marks where these do not exist within the published scoring scheme, and for which there is no published narrative.

2.9.3.4 All scores and notes made by the evaluation panel must be recorded in writing and used for reference if further moderation is required.

2.9.3.4 Section 2.9.4 of these rules advises on the need for moderation, and this is essentially to manage out subjectivity in an evaluation process. Where an evaluation contains an Interview / Presentation stage then quality scores attributed up to that point must be moderated in order to ensure that any decision taken to invite a shortlist of bidders to Interview / Presentation is based on correct and accurate scoring.

2.9.3.5 Where an Interview / Presentation stage is employed within an evaluation then officers must seek to manage this stage incorporating the following advice:

- Should a Presentation be required from a shortlist of invited bidders, then all shortlisted bidders must equally be informed, ahead of the Presentation, via the Council's electronic opportunities portal, of:
  - the theme that the bidder must base their presentation on (and this must be relevant to the subject of the procurement).
  - the time limit applied to the Presentation
  - where Interview questions are to be asked then all shortlisted bidders must equally be informed, ahead of the Interview session, via the Council's electronic opportunities portal:
  - the number of questions that will be asked
  - the marks that will be allocated to each question

2.9.3.6 Comprehensive notes of all Interview / Presentation Sessions must be recorded and fed into the evaluation matrix as these will be required to support the scoring allocated and enable feedback to be given to unsuccessful bidders.

## 2.9.4 Moderation

2.9.4.1 The Evaluation Panel will discuss their individual scores and must reach agreement on a moderated panel score and justifying comments.

2.9.4.2 Any moderated scores and applicable justifying comments must be recorded in the Evaluation Matrix accompanying the procurement.



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2.9.4.3 All notes may be the subject of information requests or legal challenge against award of a contract. It is crucial that accurate notes justifying awarded scores are maintained throughout and relate solely to the relevant award criteria.

## 2.9.5 Post Tender Clarification

2.9.5.1 Post Tender Clarification is to be requested and returned via the Council's electronic opportunities portal. Importantly, post tender clarification may only be sought in relation to an element of the bidder's submission that has been provided, and which needs further understanding.

Post Tender Clarification however cannot be used to seek from the bidder some element of the submission which has been omitted, and as such seeking provision of such omission would provide the bidder with an unfair advantage.

2.9.5.2 Evaluation scores can only be amended where specific clarification has been requested relating to the award criteria.

2.9.5.3 All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation Matrix.

## 2.9.6 Best and Final Offer (BAFO)

Officers are informed that in respect of procurements exceeding the applicable Spend Threshold, there is NO provision within the Public Contracts Regulations for a BAFO stage to be employed in any procurement procedure other than the much specialised Competitive Dialogue, Competitive Procedure with Negotiation and Innovation Partnership Procedure.

## 2.10 Method of Acceptance of Tender

2.10.1 Tenders may be accepted by the relevant Officer to who delegated authority to approve a contract award was sought in a related pre-procurement report provided that all of the following apply: -

2.10.1.1 In the case of an Open procedure, bids have been sought from the marketplace as a whole. Or, in the case of a restricted procedure, where possible, five or more tenders have been invited following a selection stage, in accordance with contracts procedure rules

2.10.1.2 the tender proposed to be accepted is either:

- the highest score if Cost and Quality in line with MEAT principles have been stated as the basis for award, or
- the Lowest Cost if Cost has been stated as the basis for award where a published minimum specification is met, or
- The Highest Quality if Quality has been stated as the basis for award where the bid meets the fixed cost that the Council has set.



2.10.2 There may be instances where due to the dynamics of a marketplace, or the specifics of the Council's requirements, only 1 tender bid is received. The Council is able to consider a single bid however Officers will naturally be concerned as to maintaining a competitive position for the Council where there is an apparent lack of competition within a marketplace. In support of this there is provision within the Public Contracts Regulations that allow a Procurement to be switched to a Negotiated Procedure in certain circumstances. Regulation 32 (the link to which is detailed below) sets out the circumstances under which this process variation can be employed, but importantly the regulation includes the ability to switch to a Negotiation where '*Competition is absent for technical reasons*'

## [The Public Contracts Regulations 2015 - Regulation 32](#)

Where an Officer proposes to utilise the provisions under Regulation 32, and vary the procurement process, then a report will need to be taken to the level to which Pre Procurement Approval was originally secured, in order to gain further approval to the process variation.

Any subsequent Negotiation which takes place must be carried out in writing via the Council's electronic opportunities portal.

2.10.3 Where an Officer proposes to reject a tender despite meeting the stated criteria officers must seek Assistant Director approval following advice from the Procurement Team.

## 2.11 Errors in Tenders

2.11.1 If before the date of entry into a contract it is discovered that an error has been made in the tender it shall be dealt with as follows: -

2.11.1.1 Building Contracts – in accordance with the National Building Specification (NBS) Guide, Alternative 1 or Alternative 2.

2.11.1.2 Other Contracts – the Tenderer must be given the opportunity of confirming the offer or of amending it to correct genuine and obvious arithmetical errors.

2.11.3 Clarification surrounding such errors shall be sought in writing via the Messaging facility within the Council's Electronic Opportunities Portal, or where a tender is taking place outside of the Electronic Opportunities Portal (for example Crown Commercial Services G Cloud) to align with the relevant Framework approach, communication should be shared by email and held in a secure storage location.

2.11.4 Should a bidder, in amending an arithmetical error, reflect a change in the bid that directly relates to the determined award criteria, then the bid must be re-scored as necessary. If a bidder opts to formally withdraw a bid altogether then it shall receive no further consideration.

## 2.12 Indemnity and Health & Safety

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## 2.12.1 Every contract shall contain clauses

2.12.1.1 requiring the contractor to observe and perform in relation to the work to be carried out under the contract the requirements of the Health & Safety at Work etc. Act 1974 or of any Regulations or Codes of Practice made under the authority of that Act and to comply with any lawful requirements of the Health and Safety Executive in relation to such work; and there shall be reserved to any duly authorised Officer of the Council the right of access to the site for the purpose of ensuring compliance with the requirements of this Clause (ii) that have regard to Sustainability and to the requirements of the Equality Act 2010.

2.12.2 In every contract the contractor shall be required to indemnify the Council against:

2.12.2.2 any claim which may be made in respect of Employers' Liability against the Council or the contractor by any workmen employed by the contractor or any sub-contractor in the execution of the works or the provision of supplies and services;

2.12.2.3 any claim for Public Liability, i.e. for bodily injury, or damage to, property of third parties; (iii) any claim which may be made under the Health and Safety at Work etc. Act, 1974 (HASWA) against the Council or the contractor/sub-contractor unless such claim is substantially due to the neglect of the Council or any of its Officers; and the contractor shall when required by the Assistant Director and Executive Director of Corporate Resources and Customer Services produce satisfactory evidence that it is insured against any such claims.

2.12.2.4 Levels of indemnity cover, must be considered for topics such as Employers Liability, Public Liability, and Professional Indemnity as appropriate to the topic in question

2.12.2.5 The responsibility rests with the Client Officer, to assess the risk surrounding the prospective procurement and settle upon levels of indemnity appropriate and proportional to the requirement. Where required, guidance in respect of Indemnity and assessing risk must be sought from relevant officers of the Council (i.e. Insurance, Health & Safety, Legal).

2.12.2.6 Where the appropriate levels of indemnity are determined through risk assessment supported by appropriate guidance from specialist Officers, bidders through a procurement process must confirm that such indemnity will be in place must a contract be awarded.

## 2.13 Funding Availability

Officers are advised that contract conditions must state:

*“The price agreed for the contract is subject to the ongoing availability of sufficient funding. In the event that during the contract period the Council does not have sufficient funds to cover the price of the contract the Contractor will develop and agree a contract variation with the Commissioner / Procurer such that the contract price remains within the funding available.*

*In the event that agreement cannot be reached the dispute resolution procedure set out within the contract will be followed.”*

## 2.14 Transfer of Undertakings (Protection of Employment) *TUPE* Regulations 2006

2.14.1 The Regulations apply to a business transfer but more regularly within the Authority it applies to service provision changes. This means that Officers commissioning / procuring Services must be aware of the impact of the TUPE Regulations. The Regulations impose a number of obligations on relevant parties and a failure to address the demands of TUPE could result in significant penalties, decisions and awards being made against the Authority which we clearly want to avoid. An outsourcing will likely carry TUPE implications and even if TUPE is deemed not to apply the potential implications must be considered as early as possible.

Another purpose of the Regulations is to ensure that in a situation where contractual delivery of a service is moving from one provider to another, i.e. by way of a procurement exercise, then affected workers' employment rights and entitlements are protected. This can include pension rights. In such circumstances the Authority may be deemed to be the client however the Council must be aware of the potential implications and requirements of the legislation and acknowledge these appropriately within Tender/outsourcing documentation and contracts.

The Council's Procurement and Legal teams and HR must be consulted in order to fully understand any potential impact on a procurement in order to protect the Council's position and address TUPE in writing, where appropriate.

Additionally, clauses within any contract where TUPE is likely to apply must be included relating to ensuring that the Council can request staffing information at any point throughout the duration of the contract.

### 2.14.2 Pensions issues when transferring out staff

This is a high-level summary of the pensions issues that Sefton MBC must consider when looking to outsource a function where that outsource may potentially involve a TUPE transfer of staff and where those staff are / or may be members of the Local Government Pension Scheme ("LGPS").

There is an obligation placed upon employers to ensure that current LGPS members retain the right to continue to pay into the LGPS, and eligible members retain the right to join.

This is very likely to be an issue where a service of function is outsourced for the first time from Sefton MBC to a new service provider (a first generation transfer).

However, it can and does regularly arise where there is a subsequent transfer from one service provider to another (a second, third or subsequent generation transfer).

For the avoidance of doubt this issue will only arise where both of the following elements are present:

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- employees are in line to transfer from Sefton MBC or from an existing service provider to a new service provider; and
- some or all of those employees are either current LGPS members or are eligible to join LGPS.

If the above elements are present, advice should be taken from Sefton HR and / or Sefton Legal Services in relation to these issues before the procurement process commences.

This is because these issues will need to be dealt with in either the Advance Request For Quotation or the Invitation To Tender.

There are various obligations and implications that must be considered and these can be addressed in part in the contractual documentation.

New contractors will need to consider, amongst other things, the following:

- They are likely to be required to enter into an admission agreement whereby the new contractor becomes an admitted body (a type of Scheme Employer). The other parties to this agreement must be the Administering Authority (Merseyside Pension Fund) and the Scheme Employer (Sefton MBC).
- They will need to know what obligations and responsibilities are placed upon them when they become an admitted body. They must know this before they submit a proposal as this can have significant costs and implications for them.

For example:

- they will need to know the level of employer pension contributions they will be required to pay, and this will depend on the demographic of the transferring members and the number, but certainly anything in the region of 23% plus of payroll can be expected;
- there may be the requirement for a bond to be put in place to cover certain associated risks to the LGPS; and
- there is likely to be a requirement to obtain an actuarial valuation in relation to the affected employees and they will need to budget for this and build this into their timeframes.

It is unwise to assume that the potential new contractors understand the risks and it is worthwhile verifying that this is the case. It is not likely to be in Sefton's MBC's best interests or those of either the new contractor or the affected employees to rely on the ignorance of a potential contractor. It is important that both parties have understood the risks involved so that no unexpected issues arise during, or at the end of, the contract term.

# PART 3: CONTRACTS UP TO BUT NOT EXCEEDING THE SPEND THRESHOLDS

## 3.1 Competition Requirements

3.1.1 Public Contract Regulations spend thresholds (for the whole value of the contract including any optional periods) are as follows: -

a) Supplies / Services -	<b>£179,078 excluding VAT</b>
b) Works -	<b>£4,477,174 excluding VAT</b>
c) Social and Other Specific Services -	<b>£552,950 excluding VAT</b>

*Note: Spend threshold figures correct as of 1<sup>st</sup> January 2024, but subject to ongoing change, ordinarily on a two year cycle. Future changes to the thresholds will be published on the [Procurement website](#)*

*'Works' means any of the activities specified in schedule 2 of the Public Contracts Regulations 2015 'Social and Other Specific Services' are as defined in Schedule 3 of the Public Contracts Regulations 2015*

*The contents of schedules 2 and 3 of the Regulations can be viewed here: -*

### [Public Contracts Regulations 2015](#)

3.1.2 In order to determine a suitable procurement approach to a specific market, Officers may first choose to carry out non-committal soft market testing in order appreciate the level of interest, and numbers of providers that exist in a particular market. This must be conducted in a way that competition isn't distorted.

3.1.3 If a Procurement process is then required, a level playing field between bidders MUST be maintained.

3.1.4 Where the estimated cost of any supplies, works or services to be ordered on behalf of the Council is less than the applicable Spend Threshold shown above then proposals shall be invited as outlined below:

3.1.4.1 Less than £20,000: proof of two written quotations is necessary in order to satisfy that best value is achieved. This responsibility rests with the Client Officer, NOT Officers of the Procurement Team.

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3.1.4.2 Between £20,000 and the applicable Spend Threshold: a procurement risk assessment must be submitted to the Procurement team, which will determine the route to market, subject to a minimum of three electronic invitations via the Council's electronic opportunities portal, or

3.1.4.3 In the case of procurement relating to "commercial activities", as defined within the Council's Financial Procedure Rules, for all contract values up to but not exceeding the spend thresholds, appropriate procurement processes shall be undertaken, with guidance and oversight from the Council's Investment Board.

3.1.4.4 To comply with national transparency requirements, all contracts above £5,000 will need to be recorded on the Council's Contract Register. Where the Client Officer / Category Manager or other member of the Procurement Team opts to publish a Request For Quotation opportunity openly, and where that opportunity is valued at £25,000 or more, then in addition to being managed on the Council's Electronic Opportunities Portal, this must also be advertised on the Government's 'Contracts Finder' Facility. Officers of the Procurement Unit will assist with this task.

3.1.4.5 Officers are reminded that the use of a Selection Questionnaire in order to narrow a marketplace in a below spend threshold exercise is **forbidden** under the Public Contracts Regulations.

## 3.2 Evaluation of Quotations

3.2.1 Evaluation and Award (for below EU spend threshold procurements)

3.2.1.1 Quotations shall be evaluated and awarded on the basis of the value for money they offer to the Council in line with one of the following options:

- Cost and Quality - in a ratio reflecting the risk and value of the contract
- Lowest Cost. - where a detailed requirement specification is met as determined and documented in advance of Quotations being invited.
- Highest Quality – where the budget that the Council is willing to commit is published to bidders and bidders are assessed on the quality that they can offer for that budget

3.2.1.2 Quotations shall be evaluated and awarded in accordance with the criteria and weightings set out in the Procurement Documentation and must not be changed at any time during the process.

3.2.1.3 Should the Cost element of a quotation evaluation involve a Cost Model, Basket of Goods, or Basket of Works, then consideration must be given, ahead of commencing the procurement exercise, to publishing that detail within the procurement document.

3.2.1.4 Where a Cost Model, Basket of Goods or Basket of Works is employed in the Cost Element of an Evaluation, the content **MUST NOT** be changed once bids are received.

## 3.2.2 Evaluation Panel

3.2.2.1 Evaluation Panels must be established prior to the issue of the Quotation documents, to ensure that they are engaged with the process and understand the evaluation criteria and weightings.

3.2.2.2 Evaluation Panels for procurements based on a mix of Cost and Quality must include representation from the client department/key stakeholders and must consist of a minimum of two operational Officers. Where the basis of evaluation is cost only then a member of the Procurement Team can be one of the evaluators.

3.2.2.3 Where an Interview / Presentation session has been planned into an evaluation, the evaluation panel members must be consistent with the panel members that have undertaken other elements of the evaluation. Ahead of any Interview / Presentation session, evaluation panel members must ensure that they are familiar with the content of the Quotations of the bidders invited to that session.

## 3.2.3 Evaluation Matrix

3.2.3.1 The Evaluation Matrix will consist of defined evaluation criteria and weightings. Marks and scores must be brought through from the Quotation document to reflect what is material to the award of a particular contract.

3.2.3.2 criteria shall have a number of marks allocated to signify to bidders the relative importance of each criterion.

3.2.3.3 Scores – All bids must be scored consistently against a scoring model which must be included in the Quotation document.

3.2.3.4 All scores and notes made by the evaluation panel must be recorded in writing and used for reference if further moderation is required. Individual Panel Member's scores and associated notes along with moderated evaluation panel scores and final justifying notes must be uploaded to the Council's electronic opportunities portal or where a tender is taking place outside of the Electronic Opportunities Portal (for example Crown Commercial Services G Cloud) to align with the relevant Framework approach, must be held in a secure storage location.

3.2.3.5 Section 3.2.4 of these rules advises on the need for moderation, and this is essentially to manage out subjectivity in an evaluation process. Where an evaluation contains an Interview / Presentation stage then quality scores attributed up to that point must be moderated in order to ensure that any decision taken to invite a shortlist of bidders to Interview / Presentation is based on correct and accurate scoring.



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3.2.3.6 Where an Interview / Presentation stage is employed within an evaluation then Officers must seek to manage this stage incorporating the following advice:

- Should a Presentation be required from a shortlist of invited bidders, then all shortlisted bidders must equally be informed, ahead of the Presentation, via the Council's electronic opportunities portal, of:
- the theme that the bidder must base their presentation on (and this must be relevant to the subject of the procurement).
- the time limit applied to the Presentation

3.2.3.7 Where an Interview / Presentation session has been planned into an evaluation, the evaluation panel members must be consistent with the officers that have undertaken other elements of the evaluation. Ahead of any Interview / Presentation session, evaluation panel members must ensure that they are familiar with the content of the tender submissions of the bidders invited to that session. All interview / presentation sessions must be attended by a member of the Procurement Team to ensure compliance to the evaluation approach.

3.2.3.8 Comprehensive notes of all Interview / Presentation Sessions must be recorded and fed into the evaluation matrix as these will be required to support the scoring allocated and enable feedback to be given to unsuccessful bidders.

## 3.2.4 Moderation

3.2.4.3 The Evaluation Panel will discuss their individual scores and must reach agreement on a moderated panel score and justifying comments.

3.2.4.2 Any moderated scores and applicable justifying comments must be recorded in the Evaluation Matrix accompanying the procurement.

(c) All notes may be the subject of information requests including from the Public Procurement Review Service. It is crucial that accurate notes justifying awarded scores are maintained throughout and relate solely to the relevant award criteria.

## 3.2.5 Post Quotation Clarification

3.2.5.1 Post Quotation Clarification is to be requested and returned via the Council's electronic opportunities portal, or where a tender is taking place outside of the Electronic Opportunities Portal (for example Crown Commercial Services G Cloud) to align with the relevant Framework approach, communication should be shared by email and held in a secure storage location.

3.2.5.2 Post quotation clarification may only be sought in relation to an element of the bidder's submission that has been provided, and which needs further understanding.

3.2.5.3 Post Quotation Clarification however cannot be used to seek from the bidder some element of the submission which has been omitted, and as such seeking provision of such omission would provide the bidder with an unfair advantage.



3.2.5.4 Evaluation scores can only be amended where specific clarification has been requested relating to the award criteria.

3.2.5.6 All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation and Moderation Matrix.

## 3.2.6 Best and Final Offer (BAFO)

3.2.6.1 For below Spend Threshold procurements which are not conducted as a Framework Further Competition only, these Contracts Procedure Rules facilitate Officers employing a BAFO stage within a procurement exercise.

3.2.6.2 The purpose of the BAFO stage, is to enable the Client / Procuring Officer to afford an opportunity to all bidders in a procurement exercise, which have not failed any pass/fail element of the evaluation, a final opportunity to improve their overall offer to the Council. This should enable the Council to seek best value.

3.2.6.3 The BAFO stage must be conducted through the Council's electronic opportunities portal, it must be provided to all 'compliant' bidders equally (i.e. those bidders that have passed all pass/fail elements of the evaluation), and must set a deadline for submission of BAFO's, to be returned via the Council's electronic opportunities portal.

3.2.6.4 Upon receipt of any number of BAFO's the Client / Procuring Officer will examine the contents of each BAFO.

3.2.6.5 A BAFO can be an improvement of any element of the bidder's 'offer' i.e. it may contain, for example;

- A lower Cost
- An improvement in the quality offering
- A value added element (such as an extended warranty on supplies)

Or any combination of these.

3.2.6.6 Where a BAFO is submitted Client / Procuring Officers must ensure that any improvements in a bidder's offer are reflected in the applicable evaluation matrix, rescored bidder's submissions only where appropriate.

## PART 4 – APPROVAL TO AWARD CONTRACTS

### 4.1 Low value Procurements - £1 to £20,000

The approval to award any Contract shall be confirmed by the Client Officer who will ensure that the Assistant Director is aware of the award.

### 4.2 Procurements £20,001 to £150,000

The approval to award any Contract shall be articulated in a Chief Officer Report and approved by the Assistant Director.

### 4.3 Procurements £150,000 to x 3 Public Contract Regulations (goods and services), 1 x Public Contract Regulations (works)

The approval to award shall be approved by the relevant Cabinet Member in consultation with the relevant Assistant Director.

### 4.4. Procurements above x3 Public Contract Regulations (goods and services), 1 x Public Contract Regulations (works)

The approval to award shall be articulated in a Cabinet Report and approved by the Cabinet. Where defined in the Pre Procurement Report or in a Cabinet delegation a Chief Officer Report can be used to articulate the award, with approval by the Assistant Director in consultation with the relevant Cabinet Member and where appropriate with the Executive Director of Corporate Resources and Customer Services.

## 4.5 Framework direct award

Where a Framework direct award is being undertaken, approval shall be subject to the same provisions as rules 4.1 to 4.4.

The following illustration summarises Procurement Process that these Contracts Procedure Rules detail

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## Appendix 1 - What level of Procurement Activity is required in respect of Contract Value?

Value	£1 - £20,000	£20,001 to Public Contract Regulations spend threshold	Above Public Contract Regulations Spend
Sourcing requirements	2 written quotes	Minimum 3 quotes or tender advertised	Open to the marketplace via Find a tender and Contracts Finder portals
Responsibility to lead sourcing activities	Client Officer	Procurement	Procurement
Sourcing document	Not required	Request for Quotation	Invitation to Tender

## Appendix 2 - GLOSSARY OF TERMS

### **Advanced Request for Quotation (ARFQ)**

Initiating step of a procurement process in which providers are invited to submit quotations for the supply of specific and clearly defined supplies, services, or works during a specified timeframe, the value of which falls below the applicable European Union Spend Threshold.

### **Assignment**

The transfer of the benefits and obligations of a contract from one Contractor to another.

### **BAFO (Best and Final Offer)**

The step of inviting providers that have submitted compliant proposals within a procurement process to refine their offering, either by an improvement of the Cost, the Quality, Value Added benefits, or a combination of these factors.

Whilst the use of a BAFO step is permitted and encouraged in procurement exercises with a value below the applicable EU spend threshold, it is forbidden in the majority of over EU spend threshold exercises.

### **Central Purchasing Body**

A Central Purchasing Body is a contracting authority that:

- acquires supplies or services intended for one or more contracting authorities, or
- awards public contracts for works, supplies or services intended for one or more Contracting Authorities; or

concludes framework agreements for works, supplies or services intended for one or more contracting authorities for one or more Contract Authorities

### **Commercial Activities**

Relates solely to activities meeting the definition of “commercial activities” within the Council’s Financial Procedure Rules

### **Client Officer**

The Officer who is responsible for defining the requirements and approvals required for any tender exercise.

### **Commissioning**

Commissioning is process by which we decide how to use and prioritise the total resources available in order to improve outcomes for citizens in the most efficient, effective and sustainable

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way. The process covers the entire cycle of assessing the needs of people, designing and securing a cost-effective approach in order to deliver better outcomes, and monitoring performance to determine whether the approach commissioned is fit for purpose, or needs to be replaced with a more effective redesigned approach. This may include the procurement of goods, works or services.

## **Contracting Authority**

The State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law and includes central government authorities.

## **Contract Payment Profile Retention**

Amounts are deducted from payments due to the contractor (retention) over the course of the contract, the value of such deductions may be dependent on the achievement of performance milestones; at the end of the contract, any such retentions are released to the contractor on satisfactory completion (including any relevant defects period).

## **Deposited Cash Bond**

A payment made by a contractor 'up-front' (or deducted from a first payment due) that is held by the Council as security until the contract is satisfactorily complete

## **Dynamic Purchasing System (DPS)**

A completely electronic system for commonly used purchases the characteristics of which, as generally available on the market, meet the requirements of the Contracting Authority and is open throughout its duration to any Contractor which satisfies the selection criteria.

## **E-Procurement**

A method of carrying out a procurement exercise using an electronic internet based tool such as the Council electronic opportunities portal.

## **Economic Operator**

Any person or public entity or group of such persons and entities, including any temporary association of undertakings, which offers the execution of works or a work, the supply of products or the provision of services on the market.

## **Evaluation Matrix**

A Microsoft Excel based document which sets out the evaluation criteria and weightings detailed within a procurement document and against which bidders' submissions and scores are recorded.

## **Framework Agreement**

An agreement which establishes the terms under which a Contractor will enter into contracts with the Contracting Authority throughout the duration of the Framework. A contractor may be awarded a contract which extends beyond the termination of the framework, provided the Contract is entered into before the framework expires and it is proportionate. Contracts awarded at the end of framework that have a disproportionate duration may amount to an abuse of the Public Contracts Regulations.

## **Invitation to Tender (ITT)**

Initiating step of a competitive tendering process in which providers are invited to submit sealed bids for the supply of specific and clearly defined supplies, services, or works during a specified timeframe

## **Light Touch Regime (LTR)**

A specific set of rules for certain service contracts including certain social, health and education services as set out in Schedule 3 of the Public Contracts Regulations.

## **Liquidated Damages**

A pre-determined level of damages (calculated as a genuine pre-estimate of loss), which the Council shall be entitled to deduct from the contractor in the event of his failure to complete the contract within a specified time.

## **Moderation Matrix**

A document which sets out the evaluation criteria and weightings detailed within a procurement document and against which bidders' submissions and scores are discussed by the evaluation panel and moderated recorded

## **Open Procedure**

A procurement procedure which makes the opportunity available to the marketplace as a whole.

## **Parent Company Guarantee**

A parent company guarantee is a declaration provided by the parent company of the main contractor which commits the parent to stepping in and honouring the terms of the contract if the Contractor must fail to do so and /or paying compensation (up to a stated maximum) in respect of loss incurred by the Council as a result of non- performance.

## **Performance Bond**

A performance bond is a guarantee provided by a surety (usually a bank or insurance co. to pay compensation (up to a stated maximum sum) in respect of loss suffered by the Council should a contractor fail to fulfil its contractual obligations.

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## Public Contracts Regulations (PCR)

The Public Contract Regulations 2015 (as amended) and the Public Procurement (Amendment Etc) (EU Exit) Regulations 2020, set out the procedures that must be followed when certain public sector contracts are to be offered to the marketplace.

## Procurement

Procurement, in the terms of the Public Contracts Regulations, is defined as the acquisition by means of a public contract of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose.

## Restricted Procurement

A procurement process that first narrows the marketplace in order that Quotations or tenders are sought from a limited group of providers

## Request for Quotation (RFQ)

Initiating step of a procurement process in which providers are invited to submit quotations for the supply of specific and clearly defined supplies, services, or works during a specified timeframe, the value of which falls below the applicable European Union Spend Threshold. RFQ's are generally evaluated on 100% Cost.

## Selection Questionnaire (SQ) (formerly Pre-Qualification Questionnaire PQQ)

The first stage in a two stage restricted tendering procedure where interested providers complete a questionnaire compiled by the Council for the purpose of selecting a short list of interested providers to whom Invitations to Tender are to be issued.

NOTE: Use of a Selection Questionnaire is ONLY permissible in EU Procurement Procedures. The 2015 Public Contract Regulations prohibit the use of Pre-Qualification Questionnaires in 'below EU' Procurement procedures

## SME

Small and medium-sized enterprises (SMEs) are non-subsidary, independent firms which employ less than a given number of employees. The most frequent upper limit designating an SME is 250 employees, as in the European Union.

## Social Value

Seeks to maximise the additional benefits that can be created by providing benefits above and beyond the core services. Award criteria can include social, economic, and environmental matters, although these must be linked to the subject matter of the contract.



## **Surety**

A person or organisation who takes responsibility for another's performance of an undertaking.

## **Voluntary Ex-Ante Transparency (VEAT) Notice**

A VEAT notice is a means of advertising the intention to let a contract without opening it up to formal competition. A contracting authority may decide that a contract does not require prior publication through a contract notice on Find a Tender.



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<b>Report to:</b>	Audit and Governance Committee	<b>Date of Meeting:</b>	Wednesday 13 December 2023
<b>Subject:</b>	Treasury Management Position to September 2023		
<b>Report of:</b>	Executive Director of Corporate Resources and Customer Services	<b>Wards Affected:</b>	All Wards
<b>Portfolio:</b>	Cabinet Member - Regulatory, Compliance and Corporate Services		
<b>Is this a Key Decision:</b>	Yes	<b>Included in Forward Plan:</b>	Yes
<b>Exempt / Confidential Report:</b>	No		

## Summary:

This report provides Members with a review of the Treasury Management activities undertaken to 30<sup>th</sup> September 2023. This document is the second report of the ongoing quarterly monitoring provided to Audit & Governance Committee whose role it is to carry out scrutiny of treasury management policies and practices.

## Recommendation(s):

Members are requested to note the Treasury Management update to 30<sup>th</sup> September 2023, to review the effects of decisions taken in pursuit of the Treasury Management Strategy and to consider the implications of changes resulting from regulatory, economic and market factors affecting the Council's treasury management activities.

## Reasons for the Recommendation(s):

To ensure that Members are fully apprised of the treasury activity undertaken to 30<sup>th</sup> September 2023 and to meet the reporting requirements set out in Sefton's Treasury Management Practices and those recommended by the CIPFA code.

## Alternative Options Considered and Rejected: (including any Risk Implications)

N/A

## What will it cost and how will it be financed?

### (A) Revenue Costs

The financial position on the external investment budget to the end of September indicates a surplus to the end of the period. The forecast to the end of the financial year also shows that investment income will exceed the level set in the budget.

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## (B) Capital Costs

None.

### Implications of the Proposals:

<p><b>Resource Implications (Financial, IT, Staffing and Assets):</b> A surplus in investment income has been forecast for 2023/24 financial year due to prevailing market conditions.</p>									
<p><b>Legal Implications:</b> The Council has a statutory duty under the Local Government Act 2003 to review its Prudential Indicators and Treasury Management Activities.</p>									
<p><b>Equality Implications:</b> There are no equality implications.</p>									
<p><b>Climate Emergency Implications:</b></p> <p>The recommendations within this report will</p> <table border="1"> <tr> <td>Have a positive impact</td> <td>N</td> </tr> <tr> <td>Have a neutral impact</td> <td>Y</td> </tr> <tr> <td>Have a negative impact</td> <td>N</td> </tr> <tr> <td>The Author has undertaken the Climate Emergency training for report authors</td> <td>N</td> </tr> </table> <p>The Council has during 2023/24, invested its reserves and balances overnight with either banks or money market funds in order to maintain high security and liquidity of such balances. It has not had the opportunity to invest in longer term financial instruments or investment funds for which there may be a chance to consider the impact on the Council's Climate Emergency motion.</p> <p>In the event that the Council has more surplus balances available in future that may lead to longer term investing, the Council will take account of the climate emergency when discussing the options available with the Treasury Management Advisors.</p>		Have a positive impact	N	Have a neutral impact	Y	Have a negative impact	N	The Author has undertaken the Climate Emergency training for report authors	N
Have a positive impact	N								
Have a neutral impact	Y								
Have a negative impact	N								
The Author has undertaken the Climate Emergency training for report authors	N								

### Contribution to the Council's Core Purpose:

Protect the most vulnerable: n/a
Facilitate confident and resilient communities: n/a
Commission, broker and provide core services: n/a
Place – leadership and influencer: Support strategic planning and promote innovative, affordable and sustainable capital investment projects through application of the CIPFA Prudential Code.
Drivers of change and reform: The Treasury Management function ensures that cash flow is adequately planned and cash is available when needed by the Council for

improvements to the borough through its service provision and the Capital Programme.
Facilitate sustainable economic prosperity: Pursuit of optimum performance on investments activities and minimising the cost of borrowing and the effective management of the associated risk continues to contribute to a balanced budget for the Council.
Greater income for social investment: n/a
Cleaner Greener: n/a

## What consultations have taken place on the proposals and when?

### (A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD7445/23) is the author of the report.

The Chief Legal and Democratic Officer (LD5545/23) have been consulted and any comments have been incorporated into the report.

### (B) External Consultations

N/A

## Implementation Date for the Decision

With immediate effect.

<b>Contact Officer:</b>	Graham Hussey
Telephone Number:	Tel: 0151 934 4100
Email Address:	graham.hussey@sefton.gov.uk

## Appendices:

There are no appendices to this report

## Background Papers:

There are no background papers available for inspection.

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## 1. Background to the Report

- 1.1. As recommended under CIPFA's revised 2021 Code of Practice on Treasury Management in Public Services, the Council's Treasury Management Policy and Strategy document for 2023/24 (approved by Council on 2<sup>nd</sup> March 2023) included a requirement for regular updates to be provided on the investment activity of the Authority. This report is the second of such reports for the year and presents relevant Treasury Management information for the period ending 30<sup>th</sup> September 2023.
- 1.2. The report includes information on the investments held / entered into during the period and the interest rates obtained (with a comparison of performance against a standard benchmark figure). In addition, the report highlights whether there has been any variance from the Treasury Management Policy and Strategy and the Council's approved Prudential Indicators (the operational boundaries within which the Council aims to work).

## 2. Investments Held

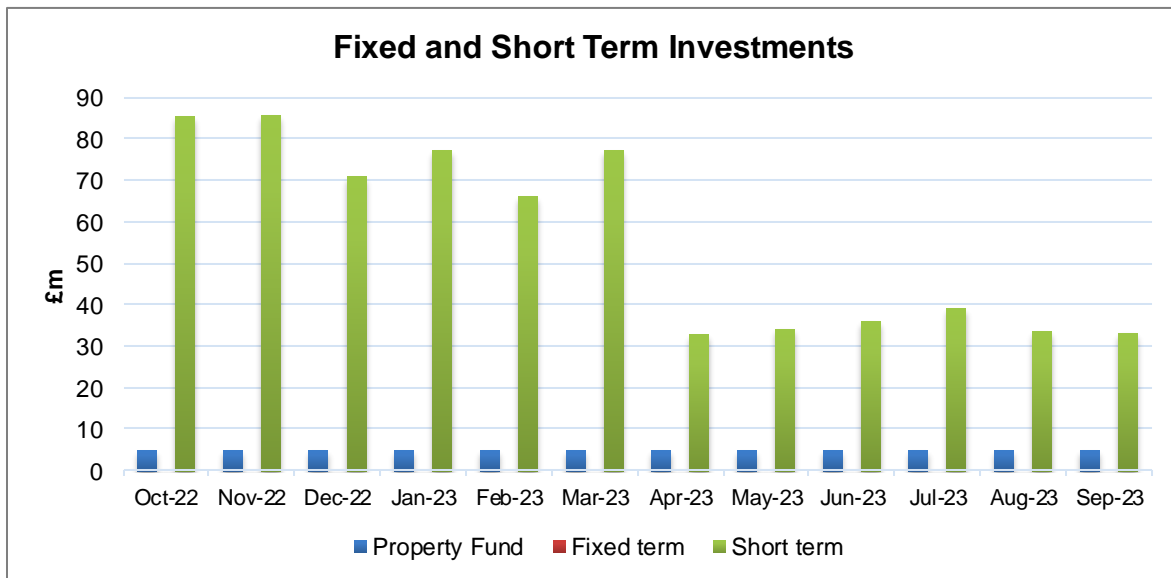
- 2.1. Investments held at the 30/09/2023 comprise the following:

Institution	Deposit £m	Rate %	Maturity	Rating
<b>Money Market Funds:</b>				
Aberdeen	3.83	5.24	01.10.23	AAA
Aviva	3.83	5.32	01.10.23	AAA
BNP Paribas	3.22	5.28	01.10.23	AAA
Goldman-Sachs	3.83	5.22	01.10.23	AAA
HSBC	3.30	5.21	01.10.23	AAA
Invesco	3.83	5.33	01.10.23	AAA
Morgan Stanley	3.83	5.27	01.10.23	AAA
Federated	3.83	5.35	01.10.23	AAA
Insight	3.83	5.30	01.10.23	AAA
Total	33.33			
<b>Property Fund:</b>				
CCLA	5.00	4.66	n/a	n/a
Total	5.00			
<b>TOTAL INVESTMENTS</b>	<b>38.33</b>			

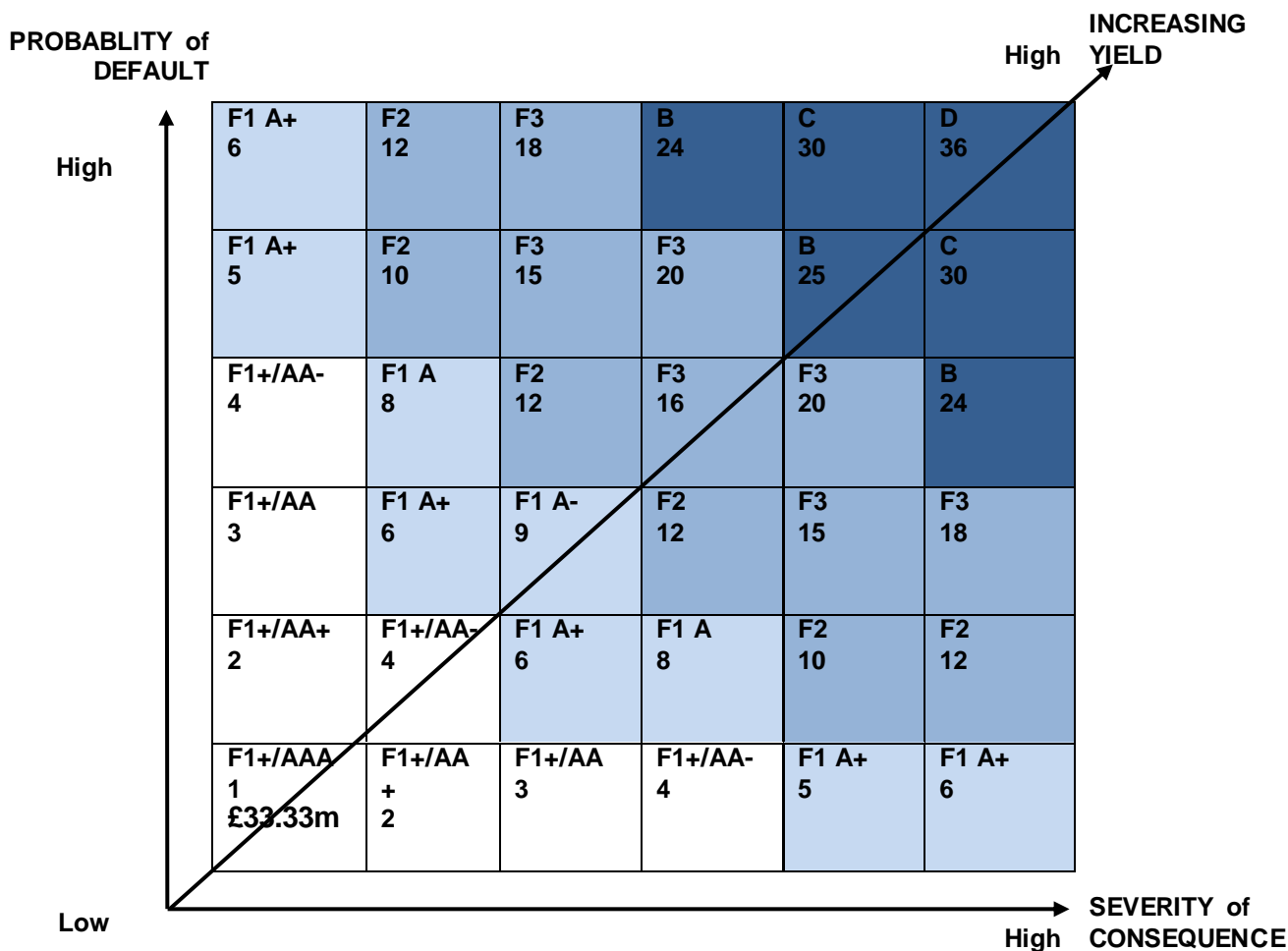
- 2.2. The Authority holds significant invested funds, representing grant income received in advance of expenditure plus balances and reserves held. The cash is initially held in a number of highly liquid Money Market Funds to ensure security of the funds until they are required to be paid out. This approach is consistent with the Council's approved Treasury Management Policy and Strategy for 2023/24. The balance of investments is therefore expected to fall over the coming months as the income is fully expended.

- 2.3. All of the investments made since April 2023 have been with organisations on the current counterparty list. The maximum level of investment permitted in the Treasury Management Strategy in any one institution, or banking group, is currently £15m. Whilst the maximum should be retained, in light of current economic conditions, a day to day operational maximum of 10% of the total portfolio is currently being imposed for investments. This will spread the risk for the Council but will have a small detrimental impact on the returns the Council will receive in the future. The Council has remained within that boundary during the year. At present, it is not expected that there will be any need to review this limit.
- 2.4. The Council will only invest in institutions that hold a minimum Fitch rating of A- for banking institutions, or AAA for money market funds. The ratings applied to investment grade institutions, and the much riskier speculative grade institutions, as defined by Fitch, have been placed into a risk matrix (paragraph 2.8).
- 2.5. An investment has been made with the Church, Charities and Local Authority Investment Fund (CCLA) in June 2014. CCLA invest in commercial property which is rented out to enterprises such as retail units, warehousing, and offices. The majority of properties owned are in the south of the country where the market is often more buoyant than the north. The Council has in effect bought a share of the property portfolio and returns paid are in the region of 4%. This is seen as a long-term investment with the potential for the capital value of the investment to vary as property prices fluctuate.
- 2.6. The Net Asset Value (NAV) of the Property Fund has decreased over a 12-month period to September 2023 from 329.70p per unit to 284.50p per unit, a decrease of 14%. The fund is considered to be a long-term investment and fluctuations in value are to be expected with this type of asset. The investment market over the past 12 months has been turbulent and driven by interest rates rather than property fundamentals. The CCLA is well positioned in the property market and has experienced no material change in tenant default rates with income levels remaining stable and reliable. The fund has a high industrial weighting with future growth potential and is making a strategic shift away the weaker office sector. The overall value of the Council's investment in the fund still remains higher than the original principal sum invested. It should also be noted that much of the fluctuation mentioned above took place in the latter half of 2022 and NAV prices have now stabilised in recent months. The situation will continue to be monitored closely however, and advice taken from the Council's treasury advisers should its position in the fund need to be reviewed. The income yield on the Property fund at the end of September 2023 was 4.66% which is above the level of returns received in the past.
- 2.7. The ratio of overnight deposits (short term) to fixed term investments and the property fund is shown below:

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2.8. The matrix below shows how the Council has set its risk appetite by being risk averse and putting security and liquidity before yield when investing:



**SEFTON RISK TOLERANCE:**

Risk Level	Score	Grade	Amount Invested
LOW	1 - 4	Investment Grade	£33.33m



LOW - MEDIUM	5 - 9	Investment Grade	<b>£0</b>
MEDIUM	10 - 20	Investment Grade	<b>£0</b>
HIGH	21 - 36	Speculative Grade	<b>£0</b>

2.9. The Council will continue to maximise any investment opportunities as they arise, but in light of current economic conditions and uncertainty around interest rates it is not envisaged that any substantial increase in returns can be achieved for the remainder of the current financial year. Cash balances available for investment will be held in overnight deposits to allow the council to respond to any exceptional demands for cash as they arise. The possibility for making long term deposits at potentially improved rates will be reviewed once economic conditions stabilise.

### 3. Interest Earned

3.1. The actual performance of investments against the profiled budget to the end of September 2023 and the forecast performance of investments against total budget at year end is shown below:

	Budget £m	Actual £m	Variance £m
<b>September-23</b>	0.602	1.059	0.457

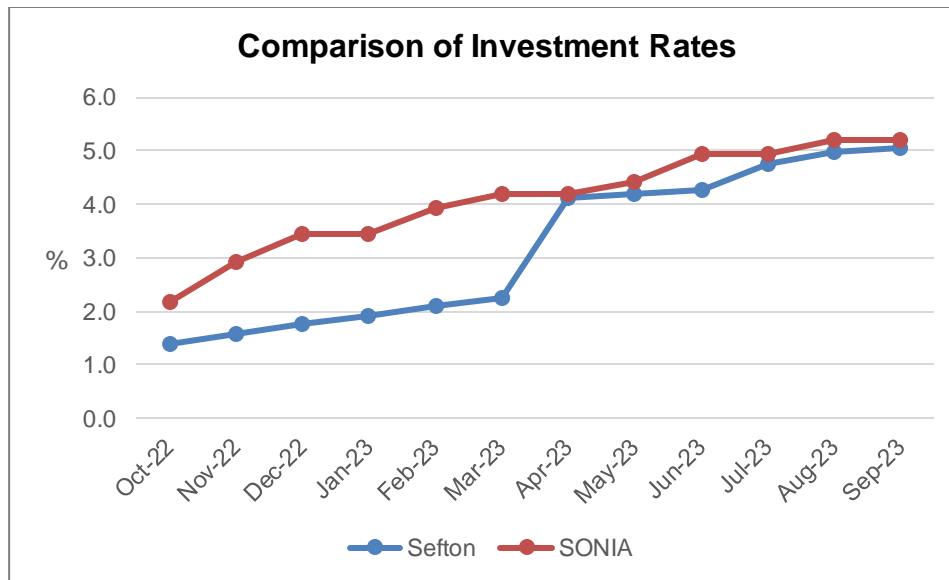
	Budget £m	Forecast £m	Variance £m
<b>Outturn 2023/24</b>	1.317	1.989	0.672

3.2. The forecast outturn for investment income shows the level of income to be above target against the budget for 2023/24. Investment rates have increased significantly in the past 12 months (see 3.4. below) largely in response to rises in interest rates. The forecast income for 2023/24 has therefore been set at a higher level when compared to previous financial years.

3.3. As mentioned in paragraph 2.9, it is not envisaged that increased rates will lead to a significant improvement in the forecast income from investments for the remainder of 2023/24 as cash balances are diminishing and held in short term deposits. Interest rate uncertainty has also made future returns difficult to forecast and a prudent approach has therefore been taken when forecasting returns for the rest of the year.

3.4. The Council has achieved an average rate of return on its investments of 5.06%. The chart below shows the average rate of return plotted against the SONIA benchmark.

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- 3.5. As can be seen from the chart above, Sefton's investments have slightly underperformed (by 0.12%) compared to SONIA to the end of September 2023, although the investment income received is above target as per the 2023/24 budget as shown in paragraph 3.1 (above).

## 4. Borrowing Strategy

- 4.1. As outlined in the Treasury Management Strategy approved by Council in March, the Authority's chief objective when borrowing has been to strike an appropriately low risk balance between securing lower interest costs and achieving cost certainty over the period for which funds are required, with flexibility to renegotiate loans should the Authority's long-term plans change being a secondary objective. The Authority's borrowing strategy continues to address the key issue of affordability without compromising the longer-term stability of the debt portfolio.
- 4.2. There has been a substantial rise in the cost of taking out new loans, both short- and long-term, over the last 18 months. The Bank Rate rose by 1% from 4.25% at the beginning of April to 5.25% at the end of September. The Bank Rate was 2% higher than at the end of September 2022.
- 4.3. The Council has PWLB loan maturities of £11.9m scheduled during 2023/24 comprising several historic loans. The Council pursues a strategy of internal borrowing as per the Treasury Management Strategy approved by Council. Cash balances will therefore be reduced to replace maturing loans where possible and when interest rates on deposits remain lower than PWLB borrowing rates.
- 4.4. Following consultation with the Council's treasury advisers, it is considered prudent to continue to pursue the above strategy in view of recent interest rate uncertainty. The borrowing position will be kept under review however and further advice sought should the need arise to take out external borrowing from the PWLB.

## 5. Interest Rate Forecast

5.1. Arlingclose, the Council's treasury advisors, have provide the following economic and interest rate view as at November 2023:

	Current	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25	Jun-25	Sep-25	Dec-25	Mar-26	Jun-26	Sep-26
<b>Official Bank Rate</b>													
Upside risk	0.00	0.25	0.50	0.50	0.75	0.75	0.75	0.75	0.75	0.75	0.75	1.00	1.00
<b>Central Case</b>	<b>5.25</b>	<b>5.25</b>	<b>5.25</b>	<b>5.25</b>	<b>5.00</b>	<b>4.75</b>	<b>4.25</b>	<b>4.00</b>	<b>3.75</b>	<b>3.50</b>	<b>3.25</b>	<b>3.00</b>	<b>3.00</b>
Downside risk	0.00	0.00	-0.25	-0.50	-0.75	-1.00	-1.00	-1.00	-1.00	-1.00	-1.00	-1.00	-1.00

### Underlying assumptions:

- UK inflation and wage growth remain elevated but, following a no-change MPC decision in November, Bank Rate appears to have peaked in this rate cycle. Near-term rate cuts are unlikely, although downside risks will increase as the UK economy likely slides into recession and inflation falls more quickly.
- The much-repeated message from the MPC is that monetary policy will remain tight as inflation is expected to moderate to target slowly. In the Bank's forecast, wage and services inflation, in particular, will keep CPI above the 2% target until 2026.
- The UK economy has so far been relatively resilient, but recent data indicates a further deceleration in business and household activity growth as higher interest rates start to bite. Global demand will remain soft, offering little assistance in offsetting weakening domestic demand. A recession remains a likely outcome.
- Employment demand is easing, although the tight labour market has resulted in higher nominal wage growth. Anecdotal evidence suggests slowing recruitment and pay growth, and we expect unemployment to rise further. As unemployment rises and interest rates remain high, consumer sentiment will deteriorate. Household spending will therefore be weak. Higher interest rates will also weigh on business investment and spending.
- Inflation will fall over the next 12 months. The path to the target will not be smooth, with higher energy prices and base effects interrupting the downtrend at times. The MPC's attention will remain on underlying inflation measures and wage data. We believe policy rates will remain at the peak for another 10 months, or until the MPC is comfortable the risk of further 'second-round' effects has diminished.
- Maintaining monetary policy in restrictive territory for so long, when the economy is already struggling, will require significant policy loosening in the future to boost activity.
- Global bond yields will remain volatile, particularly with the focus on US economic data and its monetary and fiscal policy. Like the BoE, the Federal Reserve and other central banks see persistently high policy rates through 2023 and 2024 as key to dampening domestic inflationary pressure. Bond markets will need to absorb significant new supply, particularly from the US government.
- There is a heightened risk of geo-political events causing substantial volatility in yields.

### Forecast:

- The MPC held Bank Rate at 5.25% in November. We believe this is the peak for Bank Rate.
- The MPC will cut rates in the medium term to stimulate the UK economy but will be reluctant to do so until it is sure there will be no lingering second-round effects. We see rate cuts from Q3 2024 to a low of around 3% by early-mid 2026.
- The immediate risks around Bank Rate remain on the upside, but these diminish over the next few quarters and shift to the downside before balancing out, due to the weakening UK economy and dampening effects on inflation.
- Arlingclose expects long-term gilt yields to eventually fall from current levels (amid continued volatility) reflecting the lower medium-term path for Bank Rate. However, yields will remain relatively higher than in the past, due to quantitative tightening and significant bond supply.

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## 6. Compliance with Treasury and Prudential Limits

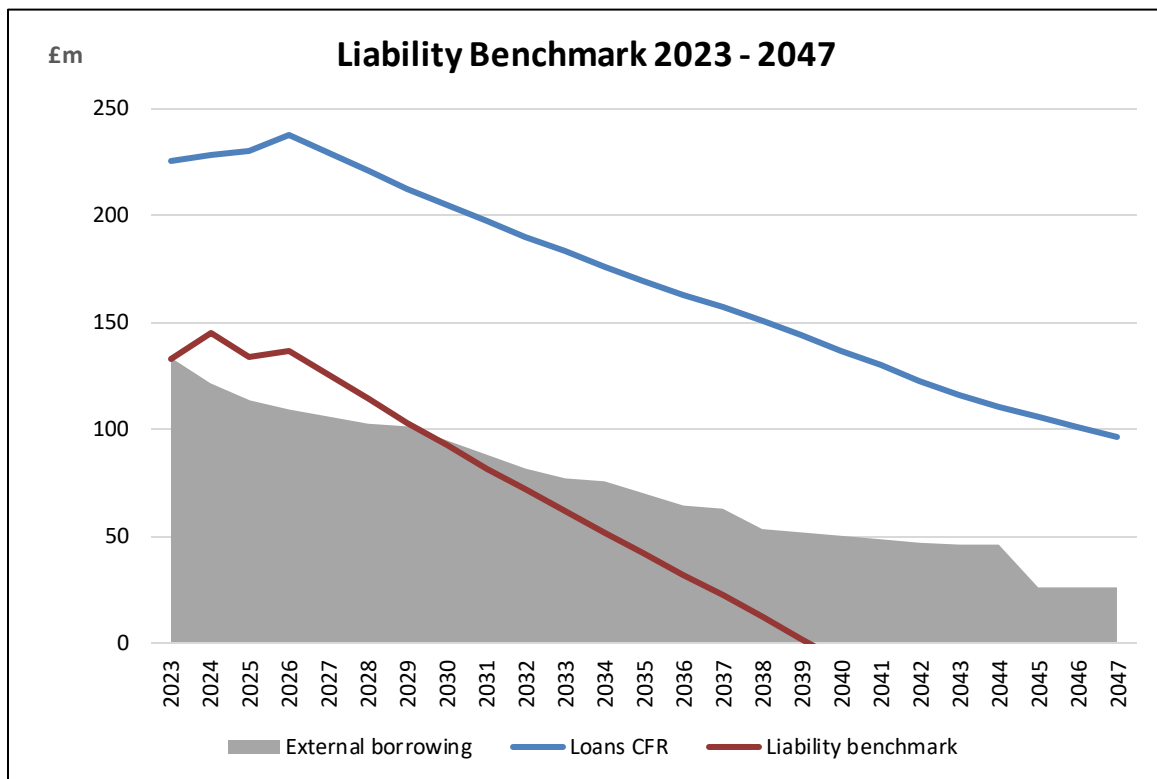
6.1. During the first half of 2023/24 financial year, the Council has operated within the treasury and prudential indicators set out in the Council's Treasury Management Strategy Statement and in compliance with the Council's Treasury Management Practices.

6.2. The key treasury indicators compared to the actuals as at 30<sup>th</sup> September 2023 are shown below:

6.2.1. Liability Benchmark: This new indicator compares the Authority's existing borrowing against a liability benchmark that has been calculated to show the lowest risk level of borrowing. The liability benchmark is an important tool to help establish whether the Council is likely to be a long-term borrower or long-term investor in the future, and so shape its strategic focus and decision making. It represents an estimate of the cumulative amount of external borrowing the Council must hold to fund its current capital and revenue plans while keeping treasury investments at the minimum level of £10m required to manage day-to-day cash flow.

<b>Liability Benchmark</b>	<b>31.03.23 Estimate £m</b>	<b>31.03.24 Estimate £m</b>	<b>31.03.25 Estimate £m</b>	<b>31.03.26 Estimate £m</b>
Loans CFR	225.4	228.6	230.5	238.0
Less: Balance sheet resources	-102.6	-93.1	-106.9	-111.2
<b>Net loans requirement</b>	122.8	135.6	123.7	126.8
Plus: Liquidity allowance	10.0	10.0	10.0	10.0
<b>Liability benchmark</b>	132.8	145.6	133.7	136.8

A long term forecast for the liability benchmark plotted against external borrowing for the next 25 years can be seen in the chart below. The long-term liability benchmark assumes capital expenditure funded by borrowing in line with the approved capital programme, minimum revenue provision on new capital expenditure based on standard asset life and income, expenditure and reserves all increasing by inflation of 2.5% each year.



6.2.2. Maturity Structure of Borrowing: This indicator is set to control the Authority's exposure to refinancing risk. The upper and lower limits on the maturity structure of all borrowing were:

<b>Maturity structure of fixed rate borrowing:</b>	<b>Upper Limit %</b>	<b>Lower Limit %</b>	<b>Actual %</b>
<b>Under 12 months</b>	15	0	2
<b>12 months to 24 months</b>	20	0	6
<b>24 months to 5 years</b>	20	0	9
<b>5 years to 10 years</b>	45	10	21
<b>10 years to 15 years</b>	45	10	19
<b>15 years +</b>	50	30	43

6.2.3. External Debt: This indicator shows the levels of actual debt compared to the authorised limit and operational boundary set for the current financial year:

<b>External Debt:</b>	<b>2023/24 £m</b>
<b>Authorised limit for external debt</b>	190

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<b>Operational boundary for external debt</b>	165
<b>Actual external debt 30.09.23</b>	129

6.2.4. Long-term Treasury Management Investments: The purpose of this indicator is to control the Authority's exposure to the risk of incurring losses by seeking early repayment of its investments. The prudential limits on the long-term treasury management limits are:

<b>Long-term Treasury Management Investments:</b>	<b>2023/24 £m</b>	<b>2024/25 £m</b>	<b>2025/26 £m</b>	<b>No fixed date £m</b>
Limit on principal invested beyond year end	15	10	5	15
Actual principal invested beyond year end	0	0	0	5

6.2.5. Interest Rate Risk Indicator: This indicator is set to control the Authority's exposure to interest rate risk. A target is set for the one-year impact of a 1% rise and a 1% fall in interest rates on the revenue account. This is measured by examining the parallel shifts in yield curves on borrowing net of treasury investments. The impact of a change in interest rates is calculated on the assumption that maturing loans and investments will be replaced at new market rates.

<b>Interest Rate Risk Indicator</b>	<b>Limit</b>
Upper limit on one-year revenue impact of a 1% <u>rise</u> in interest rates	£1m
Upper limit on one-year revenue impact of a 1% <u>fall</u> in interest rates	£1m

The Bank Rate rose by 1% from 4.25% on 1st April to 5.25% by 30th September. As mentioned in 3.2 above, the Authority has experienced an over-achievement in investment income due to interest rate rises during the year. The impact of the increase has not exceeded the £1m tolerance set at the start of the year.