

**EXTRACT SECTION 5. CAPITAL, FINANCIAL REGULATIONS
PROPOSED (amendments are shown in *bold italics* throughout)**

5. Capital

5.1 Capital Resource Allocation

The Council sets its Capital Programme as part of the annual ***Budget and Business Planning Process*** and determines its capital investment priorities based on an agreed set of principles as set out in the Capital & Investment Strategy.

No capital commitment shall be made unless the initial resource allocation is confirmed within the Capital Programme approved by the Council (either as a specified individual project or as part of a planned annual programme) or through the approval levels under section 5.1.1. This is the case for all capital projects and programmes regardless of the funding source identified, i.e. including those funded partly or fully by external grants, contributions, contingencies, revenue savings or reported capital surpluses.

The Section 151 Officer jointly with the ***Strategic Capital Board (The Strategic Capital Board is made up of the s151 officer with two Senior Leadership Team (SLT) members; the s151 plus at least one SLT member are required for the meeting to be quorate)*** will ensure that appropriate arrangements are in place to monitor the capital programme and resources, control expenditure against approved budgets, and address any problems of overspending or resource re-allocation.

The Section 151 Officer will issue guidance as needed on governance and procedures.

5.1.1 New Inclusions

New inclusions (including schemes which are met from new grants/funding bids) to the approved Capital Programme are subject to capital prioritisation by Cabinet. New inclusions outside of the annual Budget and Business Planning Process can be agreed as follows:

- (i) Where the total estimated resource bid or allocation is £50,000 or less, the ***Head of Service (in consultation with the Finance Business Partner and Senior Corporate Accountant - Capital)*** can agree its inclusion into the capital programme;
- (ii) Where the total estimated resource bid or allocation is between £50,000 and £500,000, the ***service Director (following discussion at and the support of the appropriate Capital Programme Board)*** can agree its inclusion into the capital programme, and this will subsequently be reported to Cabinet;
- (iii) Where the total estimated resource bid or allocation is between £500,000 and £1,000,000, the ***Section 151 Officer (following discussion at and the support of the Strategic Capital Board)*** can agree its inclusion into the capital programme, and this will subsequently be reported to Cabinet;
- (iv) Where the total estimated resource bid or allocation is above £1,000,000, the Cabinet can agree its inclusion into the Capital Programme, via the periodic Capital Monitoring Report to Cabinet, based on the recommendations by the Strategic Capital Board and the Section 151 Officer.

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- (v) The Leader of the Council may, in consultation with the Section 151 Officer, approve any proposed change to the Capital Programme in advance of a report to Cabinet where Cabinet approval is required. In these cases, funding must be agreed by the Section 151 Officer and reported to Cabinet in due course.

In all circumstances, the Section 151 Officer (or nominated representative) must confirm that the revenue implications of the project or the programme are affordable based on the current business case under consideration.

5.1.2 Capital Governance Process

Capital Projects are managed across a series of defined stages, each one ending in a decision stage gateway (Business Case) and follow the governance framework as specified in 5.2.

The service managers responsible for the project or a programme delivery are required to ensure that robust strategic and gateway reviews are undertaken and consultations with the relevant cabinet members and key stakeholders are carried out in advance of business case approval.

The service managers are responsible for ensuring all Business Cases include evidence to support all expenditure forecasts (supplier quotes etc.), evidence of reconciliation with Initial Business Case for any prior year expenditure in the project profile and evidence to support funding quoted within the Business Case (previous Business Cases, approval emails from the Planning Obligations Team etc.) and be signed off by the relevant Head of Service, confirming as such that the Business Case is complete, prior to obtaining a review and sign off from a member of the Finance Business Partnering Team.

Initial business cases for programmes of works should list individual schemes including a budget, timescales, scope and description of the works for each scheme.

Smaller value or simpler projects may request to combine stages and decision points. This requires approval from the appropriate Capital Programme Board.

All project and programme allocations in the capital programme must have an appropriate contingency allowance based on the risks associated with the project (and programme) and the decision stage gateway.

Upon approval of the Outline Business Case, the Project's (and Programme) overall budget moves from provisional to final. This is confirmation that the Project (or Programme) can proceed and is the baseline against which all future performance is measured.

5.2 Capital Expenditure

Provisional total Project (and programme) budgets are allocated, and initial Project (and Programme) budgets are released (capital expenditure can be incurred) following either:

- (i) the approval of the Capital Programme by the Council where initial business cases are considered as part of the capital budget setting process; or

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- (ii) the approval of initial business cases where these are submitted and considered in year (outside of the capital budget setting process) subject to the levels set out in 5.1.2.

Each remaining phase of funding is released following the approval of an updated business case at each subsequent gateway (Stage 1 Outline Business Case & Stage 2 Full Business Case), as follows:

- (iii) Where proposed projects have entered the capital programme under i) and ii) above, and remain in line with the original scope and timetable and can be delivered within the approved budget agreed by Council/Cabinet, its release can be agreed by the **Senior Corporate Accountant (Capital) in consultation with the Capital Programme Board and/or the Strategic Capital Board as appropriate.**
- (iv) Where proposed projects have entered the capital programme under i) and ii) above, but require changes to any of the agreed scope, delivery timetable and approved budget, the appropriate **Capital Programme Board and/or Strategic Capital Board (dependent on level)** is responsible for determining the level at which approval must be sought in line with section 5.2.2 below;

5.2.1 Contractual Commitments

Once a project is approved as per 5.1.2 and enters that Capital Programme, contractual capital commitments for project and programme delivery can be entered into in line with the capital approval levels set out in the Scheme of Delegation, when the following conditions are satisfied:

- (i) all sign offs required by the Contract procedure Rules (CPRs) are in place and activities are compliant with CPRs;
- (ii) the relevant decision stage gateway (business case) covering the upcoming stage that contractual spend will occur has been approved in line with the approval levels set out in 5.1. and 5.2.2.

In all circumstances, the Section 151 Officer (or nominated representative) must confirm that the revenue implications of the project or the programme are affordable based on the current business case under consideration.

Where the programmes or projects include issuing capital grants or funding to third parties, relevant officers should seek appropriate legal and financial advice, draw up a funding agreement and specify evidence required to demonstrate the capital spend and other related output measures.

Where there are changes to the tender figures or any other variations, this will fall within the provisions of section 5.2.2 below (*and see Section 9 Income and Expenditure paragraph 9.3.5 Contracts for Capital Works*).

5.2.2 Variation in time, cost and scope

Where any decision or other variation will (or may) produce an increase to the total cost of that project or programme (and/or variation to expected delivery period or scope), a change request form must be completed, and additional approvals must be sought in advance, as follows:

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- (i) Where the cumulative cost variation is less than £50,000, the **Head of Service and Finance Business Partner (or Assistant Finance Business Partner) in consultation with the Senior Corporate Accountant - Capital** must approve the change;
- (ii) Where the cumulative variation is between £50,000 and £500,000 or the project forecasts a change to an end of gateway date or there is moderate (see note below) change to the scope then the **service Director and Finance Business Partner (following discussion at and the support of the appropriate Capital Programme Board)** must approve the change;
- (iii) Where the cumulative variation is between £500,000 and £1,000,000, or the project forecasts a delay that will affect final go-live / practical completion, or there is a significant change to scope then the **151 Officer (following discussion at and the support of the Strategic Capital Board)** must approve the change;
- (iv) Where the cumulative variation is over £1,000,000 Cabinet must approve the change.
- (v) The Leader of the Council may, in consultation with the Section 151 Officer, approve any proposed change to the Capital Programme in advance of a report to Cabinet where Cabinet approval is required. In these cases, funding must be agreed by the Section 151 Officer and reported to Cabinet in due course.

A cumulative cost variation is the total amount of cost change that the project has requested since the outline business case was agreed including any current request and comply with the approval levels in 5.2.2.

Where a variation occurs at the very end of a stage the change request can form part of the next business case document. Where such a change happens (or is foreseen) during a business case gateway, a change request document must be submitted for approval and comply with the approval levels in 5.2.2.

Services should explain (with evidence) the reasons for the reported variation and confirm their support to any scope changes in their 'change request form' and provide proposed funding options to address the increased cost where relevant. Guidance and arbitration on what constitute a moderate or significant change of scope should be sought by the service from the appropriate **Capital Programme Board/and or Strategic Capital Board** (depending on level, in line with decision making).

Approval can be sought at a higher level in the Scheme of Delegation (such as escalating to the **Section 151 Officer and the Strategic Capital Board**) in all cases and where the viability and value for money of the scheme are threatened.

5.3 External Contributions

All external funding applications for capital resources should be in line with the **Strategic Plan objectives and be assessed against the agreed set of prioritisation principles for capital investment** as set out in the Capital & Investment Strategy. Service Managers responsible for the application should seek approval from the respective **capital programme board and the Strategic Capital Board and/or Cabinet (in line with the approval thresholds as set out above at 5.1.1)** about the proposed use of these resources and related implications prior to making an

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application.

In all circumstances, the Section 151 Officer (or nominated representative) must be notified and agree to all external funding applications and review the proposal on any implications to the Council's asset and infrastructure base or its Medium Term Financial Strategy. If external funding applications are successful, these will be reported to Cabinet for inclusion in the Council's Capital Programme.

Where external contributions are restricted for specific purposes, they should be used for the purposes for which they are issued in line with the relevant funding agreements or grant conditions. Where external contributions are partially or fully flexible, their use is subject to capital prioritisation by the Cabinet and approved subject to the levels set out at section 5.1.1.

Capital Programme entry for externally funded programmes and projects requires, in addition to the requirements at section 5.1.1, a formal notification by or a formal agreement with the relevant funding body or third party. Where there is a need to expend resources in advance of receiving such notification or agreement, approval must be sought from the Section 151 Officer based on a risk assessment.

Approval and variation thresholds stated in sections 5.2.1 and 5.2.2 above also apply to programmes or projects that are fully or partially externally funded.

5.4 Contract Insurance and caps on liabilities on capital design and construction contracts

The level of professional indemnity insurance required for each capital scheme is dependent upon the value of the project, the risk and potential value of any financial loss to the council and the cost for putting right. The level of public liability insurance required for each capital scheme is dependent upon the value of the project, the risk and potential value of any potential claim of compensation in respect of injury or property damage to a third party.

Indemnity clauses should be included within contracts for the design and construction of capital schemes to protect the council against any claims which may arise out of the negligence of the provider.

Limits of liability should not generally be capped within the contract. Where there are any exceptions to this, a risk assessment should be completed to determine the correct level of cover. Any cap needs to be agreed with a member of the Insurance Team, Deputy S151 Officer and Finance Business Partner, and signed off by the Service Director. Any insurance policy held by the provider of the service should be on an 'each and every' claim basis. Policies where cover is 'in the aggregate', or wording to that effect, may put the council at an increased financial risk and therefore should be avoided. Where the supplier insists on such a policy this must be agreed with a member of the Insurance Team, Deputy S151 Officer and Finance Business Partner, and signed off by the Service Director based on a completed risk assessment
["https://intranet.oxfordshire.gov.uk/cms/sites/default/files/folders/documents/aboutus/RiskAssessmentformforcontracts.docx"](https://intranet.oxfordshire.gov.uk/cms/sites/default/files/folders/documents/aboutus/RiskAssessmentformforcontracts.docx) [risk assessment \(docx format, 22Kb\)](#).

Confirmation that the supplier holds and is maintaining the relevant levels of insurance detailed within the tender document must be confirmed before the contract starts and throughout the life of the contract.

5.5 Disposals of Land and Property

In respect of disposals of land and property, the processes followed should be robust and transparent and in accordance with current legislation. Section 123 of the Local

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Government Act 1972 specifies that surplus property should be sold on the open market for the best consideration that can reasonably be achieved.

5.5.1 Approval Limits

The Director for Property should seek appropriate financial and legal advice before any disposal. **The Council's protocols concerning member engagement will be followed for all land and property disposals.** Then, depending on the value of the disposal, different levels of approval are needed, as follows:

- (i) Where the estimated disposal value is **less than £500k**, the **Director for Property may arrange for the disposal of land or property, in consultation and support with the Property Capital Programme Board subject to complying with the requirement to record decisions by officers, as set out in the Constitution.**
- (ii) Where the estimated disposal value is greater than **£500k**, a decision by the **Strategic Capital Board** to proceed with the disposal is required.
- (iii) Where the estimated disposal value of individual property assets is **£1million or more**, a **decision by Cabinet** to proceed with the disposal is required.

5.5.2 Discounted Approval Limits

Disposals may be at a discounted or 'undervalue' level, below the 'best consideration that can reasonably be obtained'. The *General Disposal Consent 2003* gives local authorities the power to dispose of property at less than the full open market value without seeking the consent of the Secretary of State where such a sale contributes to the economic, social or environmental wellbeing of the areas, and where the undervalue does not exceed £2m. Full market value can also include non-monetary consideration if:

- (i) The service or accommodation contributes to one to the Council's priorities; and
- (ii) Provided that a case is made that in effect justifies the 'expenditure' of the foregone receipt in accordance with the normal processes for the allocation of capital resources.

In these cases, disposals can be controversial therefore local circumstances and the scale of the discount in price should be considered when deciding who should make the final decision to sell and additional financial and legal advice should be sought. In general:

- (i) Where the **'undervalue' is less than £50,000**, the Director for Property may arrange for the disposal of the land or property
- (ii) Where the **'undervalue' is between £50,000 and £500,000**, the Director for Property must prepare a report to the **Property Capital Programme Board** requesting approval to proceed with the disposal
- (iii) Where the **'undervalue' is £500,000 or more** a report to the **Strategic Capital Board** requesting its approval to proceed with the disposal is required.
- (iv) Where the **'undervalue' is over £1,000,000** **Cabinet** must approve the

disposal.

Approval can be sought at a higher level in all cases as agreed by the **Director for Property and the Strategic Capital Board**.

All capital receipts generated through the disposal of land or property assets are treated as a corporate resource and used to support the capital programme unless it is specifically agreed otherwise by Cabinet based on recommendations by **the Strategic Capital Board**.

5.6 Transfers of Property Assets (Land and Property)

The process followed for the transfer of **property and land assets** should be robust and transparent and in accordance Section 123 of the Local Government Act 1972 and any related Council's policies ([Community Asset Transfer Policy](#)).

The Director for Property should seek appropriate financial and legal advice before any transfer. Then, depending on the estimated loss of income due to the transfer of the property assets, different levels of approval are needed. These are through the approval levels under section 5.5.2.