

## **COUNCIL – 14 JUNE 2011**

### **AMENDMENTS TO THE FINANCIAL PROCEDURE RULES– CHANGE TO CONSTITUTION**

#### **Report by the Chief Finance Officer & the Monitoring Officer**

##### **Introduction**

1. The Financial Procedure Rules provide the framework for management of the Authority's financial affairs. They are part of the means by which the Council seeks to achieve excellence in corporate governance. They aim to demonstrate high standards of financial integrity in the delivery of services.
2. In September 2010, a new organisational structure was announced within the context of the Council's New Business Strategy. In October 2010, a review of the Capital Governance Framework was initiated in order to make sure that any revised arrangements were aligned to the recent changes within the Council and to determine how the existing arrangements could be improved. Both the new organisational structure and the revised capital governance arrangements have now been fully implemented.
3. This report presents the proposed amendments to the Financial Procedure Rules regarding capital approval processes in light of the new organisational structure and the revised capital governance arrangements. These changes are required to ensure that the governance arrangements and the decision-making framework are fully aligned and work as effectively and efficiently as possible.

##### **Proposed Amendments to the Financial Procedure Rules**

4. The revised financial procedure rules on Capital are attached as Annex 1. The proposed key changes are summarised below:
  - (a) Details on the capital planning cycle and the decision-making process on new resource allocations are provided to bring clarity in these areas. The proposed arrangements ensure that all major resource allocation decisions are made as part of the annual capital planning cycle but also provide flexibility for new programme entry in year.
  - (b) The approval to spend thresholds for agreed budgets are updated in line with the new governance arrangements and recent changes to the organisational structures. The lowest threshold is increased to £500k and head of service approval is replaced by Key Service Manager Approval. The strong emphasis on the revenue implications of capital proposals and their affordability continues within the revised version.

- (c) The Director for Environment & Economy or the Deputy Directors for Highways & Transport and Growth & Infrastructure will sign off all project approvals (based on given thresholds) that are related to transport and property projects in consultation with the relevant client directorate representatives and, over certain thresholds, jointly with the Chief Finance Officer. Project approvals for other capital projects will continue to be signed off by relevant Key Service Manager, Deputy Director or Directors within the service areas.
  - (d) The contingency policy is formalised and a standard definition for project development budgets is provided to support the two-stage approval process in line with the Capital Strategy. In addition, variations in cost of 5% or more and over certain value are now to be approved by the Chief Finance Officer or Director for Environment & Economy, bringing stronger control, challenge and accountability over cost increases across the capital programme.
  - (e) The Head of Property is replaced by the Deputy Director for Growth & Infrastructure regarding the decisions related to disposals of land and property. The Director for Environment and Economy makes decisions over certain thresholds in consultation with the Chief Finance Officer or takes a report to the Cabinet over certain thresholds or where there is a consideration of “undervalue”.
  - (f) A new section on transfers of property assets is also included in the revised rules. Thresholds for approvals are set at the same level as the disposal for land and property but with an emphasis on “the estimated loss of income” regardless of it being capital or revenue.
  - (g) There is now stronger emphasis/ control on the programme entry and approval of externally funded schemes and prioritisation of use of these resources when they are flexible. This captures the process for applying for unringfenced or project or programme specific grants or funding and links it with decision-making on priorities at the high-level capital governance.
  - (h) There is also reference to issuing capital grants to 3<sup>rd</sup> parties and the requirement for funding agreements and provision of evidence for capital expenditure, especially where the Council acts as intermediary between the funding body and receiver of the grant.
5. It is considered that by making these amendments to the Financial Procedure Rules, the Council will ensure that it continues to have sound financial management policies in place, it conducts its business effectively and that it complies with good practice requirements concerning the management of its capital investment programme. There are no direct financial implications arising from this report.

6. The proposed changes were developed in consultation with the Chief Finance Officer and the Director for Environment and Economy. They were considered and recommended by the Capital Investment Board on 24 May 2010 in light of the new capital governance arrangements which were agreed during the same meeting.

## **RECOMMENDATION**

7. **The Council is RECOMMENDED to:**
  - (a) **agree the proposed amendments to the Financial Procedure Rules, as outlined in paragraph 4 above and as detailed in Annex 1; and**
  - (b) **ask the Monitoring Officer to amend the Council's Constitution accordingly.**

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## THE REVISED FINANCIAL PROCEDURE RULES ON CAPITAL

### CAPITAL EXPENDITURE AND PROGRAMME

#### Initial Capital Resource Allocation

12. The Council sets its Capital Programme as part of the annual Service and Resource Planning Process and determines its capital investment priorities based on an agreed set of principles.
13. No capital commitment shall be entered into unless the initial resource allocation:-
  - (a) is confirmed within the Capital Programme approved by the Council (either as a specified individual project or as part of planned annual programmes); or
  - (b) is confirmed within the revenue budget approved by the Council, and the Chief Finance Officer has confirmed that funding is available to fund capital investment in the Medium Term Financial Plan and that the revenue implications of the allocation is affordable; or
  - (c) is agreed to be fully or partially funded by using external contributions, available capital surplus, contingencies or reported savings within the capital programme.
14. New inclusions or changes to the approved Capital Programme under 13b and 13c are subject to capital prioritisation by the Capital Investment Board:-
  - (a) Where the initial resource allocation is £200,000 or less, the Director for Environment & Economy or the Chief Finance Officer can agree its inclusion into the capital programme in consultation with the Capital Investment Board where required;
  - (b) Where the initial resource allocation is above £200,000, the Cabinet or the Leader of the Council (Paragraph 35) can agree its inclusion into the Capital Programme based on the recommendations by the Capital Investment Board.
15. All project allocations in the capital programme have a 5% project development budget and a 10% project contingency allowance at the inception stage unless it is stated otherwise in the business cases or there are specific conditions set by external funding bodies where projects are fully or partially externally funded.

16. All programme allocations in the capital programme have a 10% programme development budget and a 10% project contingency allowance at the inception stage unless it is stated otherwise in the business cases or there are specific conditions set by external funding bodies where programmes are fully or partially externally funded.
17. Project and programme development budgets are released:
  - (a) following the approval of the Capital Programme by the Council where initial business cases are considered as part of the capital budget setting process; or
  - (b) in-year where initial business cases are submitted and considered as part of the two stage approval process as per the Council's Capital Strategy.
18. Release of delivery budgets are subject to the two stage approval process as per the Council's Capital Strategy. The use of contingencies is closely monitored and they are returned back to the capital programme where they are not needed.

### **Capital Expenditure**

19. Once the initial resource allocation is agreed for a project or a programme, capital commitments can be entered into when following conditions are satisfied:

In the case of a project or a programme that costs:

- (a) £500,000 or less, it has been approved and recorded by the Service or Cost Centre Manager;
- (b) between £500,000 and £1,000,000, the relevant Key Service Manager<sup>1</sup>, in consultation with the relevant Deputy Director(s), has approved a detailed project appraisal for that project or programme;
- (c) between £1 million and £2 million, the relevant Deputy Director<sup>2</sup>, in consultation with the Director for Environment and Economy and the Chief Finance Officer, has approved a detailed project appraisal for that project or programme;

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<sup>1</sup> In the case of transport and property programmes / projects the relevant Key Service Managers are the KSMs who are responsible for the delivery of the transport capital programme and the property capital programme respectively.

<sup>2</sup> In the case of transport and property programmes/ projects the relevant Deputy Directors are the Deputy Director for Highways and Transport and the Deputy Director for Growth and Infrastructure respectively.

- (d) between £2 million and £5 million, the relevant Director<sup>3</sup> and the Chief Finance Officer, in consultation with the relevant Cabinet Member(s), have approved a detailed project appraisal for that project or programme;
  - (e) £5 million and over, the Cabinet has approved a detailed project appraisal for that project or programme; and
20. In all circumstances, the Chief Finance Officer (or his/her representatives) must confirm that the revenue implications of the project or the programme are affordable based on the final project appraisal. Where the programmes or projects include issuing capital grants to 3<sup>rd</sup> 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 the tender figures or other variation occur, this will fall within the provisions of paragraph 21 below.

### **Variation in costs**

21. Where any tender or other variation will (or may) produce an increase of 5% or more on the total cost of that project or programme, additional approvals must be sought as follows.
- (a) Where the variation (5% or more) is less than £200,000, the Director for Environment & Economy must approve the change in consultation with the Chief Finance Officer;
  - (b) Where the variation (5% or more) is over £200,000, the Chief Finance Officer must approve the change in consultation with the Capital Investment Board.

Services should explain the reasons for the reported variation and confirm their agreement to any scope changes in their reports, and bring funding proposals to address the increased cost where relevant.

22. Approval should be sought at a higher level than stated in (a) and (b) above in cases where the estimated level of percentage increase is very high or where the viability and value for money of the scheme are threatened.

### **External Contributions**

23. All external funding applications for capital resources should be in line with Corporate Plan objectives and be assessed against the agreed set of prioritisation principles for capital investment. Key Service Managers responsible for the application should inform the Chief Finance Officer and the Director for Environment and Economy about the proposed use of these resources and related implications prior to making an application.

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<sup>3</sup> In the case of transport and the property programmes/ projects the relevant Director is the Director for Environment and Economy

24. Where the scale of the applications is significant or proposals have major implications for the Council's asset and infrastructure base or its Medium Term Financial Plan, they will need to be agreed by the Capital Investment Board.
25. 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.
26. Where external contributions are partially or fully flexible, their use is subject to capital prioritisation by the Capital Investment Board as per paragraph 14.
27. Capital Programme entry for externally funded programmes and projects requires, in addition to the requirements at Paragraph 14, 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 Chief Finance Officer based on a risk assessment.
28. Approval and variation thresholds stated in paragraphs 19 and 21 also apply to programmes or projects that are fully or partially externally funded.

### **Insurance reinstatements**

29. In the case of insurance reinstatements paragraphs 14, 19 and 21 above apply if the Council is contributing additional resources. If there is a proposal to change to the use of asset or the service provided from this asset, the Capital Investment Board should review the proposals and make recommendations to the Cabinet as required.

### **Responsibilities of Chief Finance Officer**

30. The Chief Finance Officer, jointly with the Director for Environment and Economy, will ensure that appropriate arrangements in place to monitor the capital programme and resources, control expenditure against approved budgets, and address any problems of overspending or resource re-allocation in consultation with the Capital Investment Board.
31. Capital budgets for new projects or changes to the approved capital budgets for projects in the programme will be put forward for approval by Cabinet as part of a financial monitoring report by the Chief Finance Officer.
32. The Chief Finance Officer will ensure that virements are allowed only where they are within the overall policy framework and do not involve an increasing commitment in future years which cannot be contained within existing approved budget allocations as determined by the Council.
33. The Chief Finance Officer will issue guidance as needed on governance and procedures.

## Responsibilities of Directors

34. When disposing of assets other than land and property – such as surplus or obsolete materials, stores or equipment, Directors should follow guidance issued by the Chief Finance Officer and seek advice from him/her. When considering investment in the land and property assets or entering into any agreement which includes acquisition, disposal or management of land or property, Directors should follow the guidance issued by the Director for Environment and Economy and seek advice from him/her.
35. Part 7 of the Constitution delegates specific powers and functions to the Director for Environment and Economy. These include various functions relating to the management of land and property. In particular, these set out procedures for the disposal of land and the transfer of assets. In addition, the Director for Environment and Economy has specific responsibilities in relation to the in-year capital resource allocation (14a), approval for programmes and projects related to transport and property assets (19c & 19d), approval of variations in costs below certain thresholds (21a) and monitoring of the capital programme (30).

## Leader of the Council

36. The Leader of the Council may in conjunction with the Chief Finance Officer approve any proposed change to the Capital Programme in advance of the financial monitoring report to Cabinet subject to the thresholds set out in 14(b). In these cases, funding must be agreed by the Chief Finance Officer and reported to the Cabinet in due course.

## Disposals of Land and Property

37. In respect of disposals of land and property, the processes followed should be robust and transparent and in accordance with current legislation and Council's policies for "the Disposal of Surplus Land for Less than Market Value"<sup>4</sup> and "the Sale of Surplus Land for Affordable Housing"<sup>5</sup>.
38. The Deputy Director for Growth and Infrastructure should seek appropriate financial and legal advice before any disposal. Then, depending on the value of the disposal, different levels of approval are needed, as follows:
  - (a) Where the estimated disposal value is less than £2 million, the Deputy Director for Growth and Infrastructure may arrange for the disposal of land or property, but;
  - (b) Where the estimated disposal value is between £2 million and £5 million, a decision by the Director for Environment and Economy and the Chief Finance Officer to proceed with the disposal is required, or;

<sup>4</sup> Report to the Cabinet dated 28<sup>th</sup> October 2003.

<sup>5</sup> Report to the Cabinet dated 17<sup>th</sup> April 2007.



- (c) Where the estimated disposal value of individual property assets is £5 million or more, a decision by Cabinet to proceed with the disposal is required.
39. Disposals may be at a discounted or 'undervalue' level, below the 'best consideration that can reasonably be obtained'. In these cases, additional financial and legal advice should be sought. Disposals in these cases can be controversial so local circumstances and the scale of the discount in price should be considered when deciding who should make the final decision to sell. Generally though:
- (a) Where the 'undervalue' is less than £250,000, the Deputy Director for Growth and Infrastructure may arrange for the disposal of the land or property in consultation with the Director for Environment and Economy and the Chief Finance Officer; but
  - (b) Where the 'undervalue' is between £250,000 and £1 million, the Deputy Director for Growth and Infrastructure must prepare a report to the Chief Finance Officer, requesting approval to proceed with the disposal; or
  - (c) Where the 'undervalue' is £1 million or more, the Director for Environment and Economy and the Chief Finance Officer must prepare a report to Cabinet, requesting their approval to proceed with the disposal.
40. Approval should be sought at a higher level in cases that are sensitive or where there is a large discount from the 'best consideration' value following consultation with the Capital Investment Board.
41. All capital receipts generated through the disposal of property assets are treated as corporate resource and used to support the capital programme unless it is specifically agreed otherwise by the Cabinet based on recommendations by the Capital Investment Board.

### **Transfers of Property Assets (Land & Property)**

42. In respect of transfers of property assets, the processes followed should be robust and transparent and in accordance with Council's related policies as set out in the Corporate Asset Management Plan.
43. The Deputy Director for Growth and Infrastructure should seek appropriate financial and legal advice before any transfer. Then, depending on the value of loss of income due to the transfer of the property assets, different levels of approval are needed. These are as follows:
- (a) Where the estimated loss of income is less than £250,000, the Deputy Director for Growth and Infrastructure may arrange the transfer of

property assets in consultation with the Director for Environment and Economy and the Chief Finance Officer; or

- (b) Where the estimated loss of income is between £250,000 and £1 million, the Director for Environment and Economy and the Chief Finance Officer may arrange the transfer of property assets in consultation with the Capital Investment Board based on a report by the Deputy Director for Growth and Infrastructure, requesting approval to proceed with the transfer; or
- (c) Where the estimated loss of income is £1 million or more, the Director for Environment and Economy and the Chief Finance Officer must prepare a report to Cabinet, requesting its approval to proceed with the transfer.

44. Approval should be sought at a higher level in cases that are sensitive following consultation with the Capital Investment Board.

### **Acquisition of Land and Property**

45. In respect of the acquisition of land and property where budget provision for an acquisition exists within the total Council budget, the Deputy Director for Growth and Infrastructure may approve a purchase of land or property in accordance with approval levels specified in paragraph 19 above.