

Central Bedfordshire Shadow Council CONSTITUTION

April 2008

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PART 1

LOCAL GOVERNMENT ACT 2000

CONSTITUTION OF CENTRAL BEDFORDSHIRE SHADOW COUNCIL

SUMMARY AND EXPLANATION

SUMMARY AND EXPLANATION

Interpretation

Throughout this Constitution references to “Shadow Council” mean the Shadow Council which will become Central Bedfordshire Council on 1 April 2009 and references to “Shadow Executive” mean the Shadow Executive established by the Shadow Council’s executive arrangements.

The Council’s Constitution

The Shadow Council has agreed a Constitution which sets out how it operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles, which set out the basic rules governing the Council’s business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What’s in the Constitution?

Article 1 of the Constitution commits the Shadow Council to providing clear leadership to the community, supporting the active involvement of citizens in its decision making process and ensuring that those responsible for decision making are clearly identifiable and accountable to local people. Articles 2 – 16 explain the rights of citizens and how the key parts of the Shadow Council operate. These are:

- Members of the Shadow Council (Article 2)
- Citizens and the Shadow Council (Article 3)
- The Shadow Council meeting (Article 4)
- Chairing the Shadow Council (Article 5)
- Scrutiny of decisions (Article 6)
- The Shadow Executive (Article 7)
- Regulatory and other Committees (Article 8)
- The Standards Committee (Article 9)
- Area Committees/Forums (Article 10)
- Joint Arrangements (Article 11)
- Officers (Article 12)
- Decision Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)

- Review and Revision of the Constitution (Article 15)
- Suspension, Interpretation and Publication of the Constitution (Article 16)

HOW THE COUNCIL OPERATES

The Shadow Council is composed of 124 councillors appointed in accordance with Section 15 (2) of The Bedfordshire (Structural Changes) Order 2008 hereinafter referred to as “the Implementation Order”. Councillors are democratically accountable to residents of their electoral division. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for ensuring that training and advice is provided on the code of conduct.

All councillors meet together as the Shadow Council. Meetings of the Shadow Council are normally open to the public. Here councillors will decide overall policies and set the budget for Central Bedfordshire Council. The Leader and Deputy Leader of the Shadow Council are appointed by the Implementation Order and the Council will appoint members of the Shadow Executive. It may also appoint committees.

HOW DECISIONS ARE MADE

The Shadow Executive is the part of the Shadow Council which is responsible for most day-to-day decisions. The Shadow Executive is made up of a Chairman, a Vice-Chairman and a cabinet of councillors. When major decisions are to be discussed or made, these are published in the Shadow Executive's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with officers at a meeting of the Shadow Executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Shadow Executive has to make decisions which are in line with the Implementation Order.

SCRUTINY

There is one Scrutiny Committee which will support and facilitate the work of the Shadow Council in discharging its duty to prepare for the assumption by Central Bedfordshire Council of full local authority functions and powers on 1st April 2009, as provided in the Implementation Order.

THE COUNCIL'S STAFF

The Shadow Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Shadow Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Shadow Council.

CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with the Shadow Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Shadow Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Shadow Council and its committees except where, for example, personal or confidential matters are being discussed;
- find out, from the Shadow Executive's forward plan, what major decisions are to be discussed by the Shadow Executive or decided by the Shadow Executive or officers, and when;
- attend meetings of the Shadow Executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Shadow Council and Shadow Executive;
- complain to the Shadow Council about its operations;
- complain to the Ombudsman if they think the Shadow Council has not followed its procedures properly. However, they should only do this after using the Shadow Council's own complaints process;
- complain to the Standards Board for England if they have evidence which they think shows that a councillor has not followed the Shadow Council's Code of Conduct; and
- inspect the Shadow Council's accounts and make their views known to the external auditor.

The Shadow Council welcomes participation by its citizens in its work. For further information on citizens' rights please contact the Shadow Council's Interim Monitoring Officer.

PART 2

LOCAL GOVERNMENT ACT 2000

CONSTITUTION OF CENTRAL BEDFORDSHIRE SHADOW COUNCIL

ARTICLES OF THE CONSTITUTION

Articles of the Constitution

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ARTICLE 1 – THE CONSTITUTION

1. Powers of the Shadow Council

The Shadow Council will exercise all of its powers and duties in accordance with the law, the provisions of the Implementation Order and this Constitution.

2. The Constitution

This Constitution and all of its appendices is the Constitution of the Shadow Council.

3. Purpose of the Constitution

The purpose of this Constitution is to:

- 3.1 enable the Shadow Council to provide clear leadership to the community and partnership with citizens, businesses and other organisations;
- 3.2 support the active involvement of citizens in the process of local authority decision-making;
- 3.3 help councillors represent their constituents more effectively;
- 3.4 enable decisions to be taken efficiently and effectively;
- 3.5 create a powerful and effective means of holding decision makers to public account;
- 3.6 ensure that no-one will review or scrutinise a decision in which they were directly involved;
- 3.7 ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and

provide a means of improving the delivery of services to the community.

ARTICLE 2 - MEMBERS OF THE SHADOW COUNCIL

1. Composition and Eligibility

The Shadow Council will comprise councillors of the councils of Mid and South Bedfordshire District Councils and councillors of the Bedfordshire County Council for the Central Bedfordshire electoral divisions at the time of the Implementation Order coming into force, called councillors.

2. Election and term of office for Councillors

The terms of office of councillors will finish on the fourth day after the date of the election required to be held in 2009. Until 30 September 2008, in the event of a councillor not continuing in office, a by-election will be held at the earliest appropriate opportunity.

3. Role and Functions of all Councillors

All councillors will:

- 3.1 collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- 3.2 represent their communities and bring their views into the Shadow Council's decision-making process, i.e. become the advocate of and for their communities;
- 3.3 contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;
- 3.4 deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- 3.5 effectively represent the interests of their ward and of individual constituents;
- 3.6 balance different interests identified within the ward and represent the ward as a whole;
- 3.7 respond to constituents' enquiries and representations, fairly and impartially;
- 3.8 be involved in decision-making;
- 3.9 participate in the governance and management of the Shadow Council;
- 3.10 be available to represent the Shadow Council on other bodies; and
- 3.11 maintain the highest standards of conduct and ethics.

4. Rights and Duties

- (a) Councillors will have such rights of access to such documents, information, land and buildings of the Shadow Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public information which is confidential or exempt without the consent of the Shadow Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (c) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

5. Conduct

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

6. Allowances

Councillors will be entitled to receive allowances in accordance with any Members’ Allowance Scheme set out in Part 6 of this Constitution.

ARTICLE 3 – CITIZENS AND THE SHADOW COUNCIL

1. Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Information.** Citizens have the right to:
 - (i) attend meetings of the Shadow Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Shadow Executive when key decisions and other matters are being considered (except where confidential or exempt information is likely to be disclosed and part of the meeting is therefore held in private);
 - (iii) find out from the forward plan what key decisions will be taken by the Shadow Executive and when;
 - (iv) see reports and background papers, and any records of decisions made by the Shadow Council and the Shadow Executive;
 - (v) inspect the Shadow Council's accounts and make their views known to the external auditor; and
 - (vi) receive information held by the Shadow Council subject to the Freedom of Information Act 2000.
- (b) **Complaints.** Citizens have the right to complain to:
 - (i) the Shadow Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Shadow Council's own complaints scheme;
 - (iii) the Standards Board for England about a breach of the Councillors' Code of Conduct.

2. Citizens' responsibilities

A healthy democracy depends upon active citizenship. Citizens are encouraged to make use of their roles as both voters and members of their wider community by:-

- (i) using their vote;
- (ii) respecting the expression of differing opinions in public debate;
and
- (iii) promoting tolerance and respect between their fellow citizens.

ARTICLE 4 – THE FULL SHADOW COUNCIL

1. Meanings

- (a) **Policy Framework.** The policy framework means such statutory plans and strategies as are required by legislation, orders or regulations to be prepared by the Shadow Council, together with such recommended or discretionary plans and strategies as the Shadow Council may decide to adopt in preparation for Central Bedfordshire Council assuming the full range of local authority functions on 1 April 2009.
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and formulating a plan or strategy for the control of Central Bedfordshire Council's borrowing requirements (including prudential indicators), investments and the control of its capital expenditure and setting of virement limits.

2. Functions of the full Shadow Council

Only the Shadow Council will exercise the following functions:-

- (a) adopting the Constitution (but the Interim Monitoring Officer, in consultation with the chairman and/or leader of the council, may amend the Constitution as detailed in Article 15.02);
- (b) approving or adopting the policy framework and the budget;
- (c) appointing the Shadow Executive;
- (d) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (e) appointing representatives to outside bodies unless the appointment is a Shadow Executive function or has been delegated by the Shadow Council;
- (f) adopting an allowances scheme under Article 2.06;
- (g) changing the name of the area;
- (h) confirming the appointment of the Head of Paid Service of Central Bedfordshire Council;
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

- (j) all local choice functions set out in Part 3 of this Constitution which the Shadow Council decides should be undertaken by itself rather than the Shadow Executive; and
- (k) all other matters which, by law, must be reserved to the Shadow Council.

3. Shadow Council Meetings

There are two types of Shadow Council meeting:

- (a) ordinary meetings
- (b) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in part 4 of this Constitution.

4. Responsibility for functions

The Shadow Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Shadow Council's functions which are not the responsibility of the Shadow Executive.

ARTICLE 5 – CHAIRING THE SHADOW COUNCIL

- 1. Role and function of the Chairman** The Chairman of the Shadow Council and in his/her absence the Vice-Chairman will have the role and functions set out below:

Chairing the Shadow Council Meeting

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary.
2. to preside over meetings of the Shadow Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.

ARTICLE 6 - SCRUTINY ARRANGEMENTS

- 1.** The Shadow Council will appoint one Scrutiny Committee to discharge the following functions:-
 - (a) to support and facilitate the work of the Shadow Council in discharging its duty to prepare for the assumption by Central Bedfordshire Council of full local authority functions and powers on 1 April 2009, as provided in the Implementation Order;
 - (b) to review those preparations and related decisions; and
 - (c) to comment and/or make recommendations to the Shadow Executive and/or Shadow Council, as appropriate to their respective powers and duties under the Implementation Order.
- 2.** In discharging the functions described in Article 6 (1), the Committee shall have the powers conferred by Section 21 of the Local Government Act 2000 and shall conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

ARTICLE 7 – THE SHADOW EXECUTIVE

1. Role

The Shadow Executive will carry out all functions which are delegated to it under Section 21 of the Implementation Order including preparing, keeping under review and revising the Implementation Plan in accordance with Section 19 of the Implementation Order and other functions in Section 20 of the Implementation Order.

2. Form and Composition

The Shadow Executive will consist of the Leader appointed under Article 16(4) of the Implementation Order and the Deputy Leader appointed under Article 16(5) of the Implementation Order and ten other persons, of whom Mid Bedfordshire District Council and South Bedfordshire District Council shall each nominate three, being persons who are for the time being councillors of the district council by which they are nominated, and four persons nominated by Bedfordshire County Council, each of whom is for the time being a member of the County Council for one of the Central Bedfordshire electoral divisions.

3. Shadow Executive Chairman

The Chairman of the Shadow Executive will be the Leader of the Shadow Council appointed in accordance with Section 16(4) of the Implementation Order. The Chairman will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (d) he/she is not longer a councillor; or
- (d) he/she is removed from office by resolution of the Council; or
- (e) the first annual meeting of the new Central Bedfordshire Council in 2009.

4. Shadow Executive Vice-Chairman

The Vice-Chairman of the Shadow Executive shall be appointed by the Leader and shall act in place of the Leader, if the Leader is absent or otherwise unable to carry out his/her duties. If the Leader no longer holds office, the Vice-Chairman will carry out the role and duties of the Leader until such time as the Council elects a Councillor to the position of Leader.

5. Other Shadow Executive Members

Other Shadow Executive members shall hold office until:-

- (a) they resign from office; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect two working days after receipt of the notice by the proper officer.

6. Portfolios

The Leader shall have authority to determine the portfolio structure of the Shadow Executive, within any constraints imposed by the Shadow Council, and to vary that structure from time to time.

The Leader shall allocate portfolios to individual members of the Shadow Executive and may vary that allocation at any time.

Any powers delegated by the Leader to individual portfolio holders, together with the limits of those powers, shall be documented in the list at Part 3 of this Constitution as referred to in Article 7.09.

7. Restriction on Membership

Neither the Chairman nor Vice-Chairman of the Shadow Council may be appointed to the Shadow Executive.

Members of the Shadow Executive (including the Leader) shall not be members of the Scrutiny Committee.

There may be no co-optees and no substitutes for Shadow Executive members.

8. Proceedings of the Shadow Executive

Proceedings of the Shadow Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

9. Responsibility for functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Shadow Executive, committees of the Shadow Executive, officers or joint arrangements are responsible for the exercise of particular executive functions. The Leader may vary the scheme of delegation of executive functions at any time subject to compliance with the provisions of paragraph 1.3 of the Executive Procedure Rules.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

1. Regulatory and other committees

The Shadow Council will appoint the committees set out in the left hand column of the table *Responsibility for Council Functions* in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

ARTICLE 9 – THE STANDARDS COMMITTEE

1. Standards Committee

The Shadow Council meeting will establish a Standards Committee.

2. Composition

There is no requirement for the Committee to comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

The Standards Committee will be composed of all those existing elected and independent (but not town/parish) members of the MBDC and SBDC Standards Committees, together with three elected and three independent members nominated by the existing BCC Standards Committee. Independent members will be entitled to vote at meetings. (A member of the executive may not chair the committee). The Committee shall be chaired by one of the independent persons serving upon the Committee.

The Chairman of the Standards Committee, or in his/her absence, the Vice-Chairman shall present the recommendations of the Committee and deal with any questions arising, irrespective of whether that person is an elected Member. However, any recommendations shall be moved formally by an elected Member of the Shadow Council.

3. Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives.
- (b) assisting Councillors and co-opted members (and church and parent governor representatives) to observe the Members' Code of Conduct.
- (c) advising the Shadow Council on the adoption or revision of the Members' Code of Conduct.
- (d) monitoring the operation of the Members' Code of Conduct.
- (e) advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct.

- (f) granting dispensation to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct.
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer and any report referred by an ethical standards officer to the Committee.

ARTICLE 10 – AREA COMMITTEES AND FORUMS

NOT APPLICABLE

ARTICLE 11 – JOINT ARRANGEMENTS –

1. Arrangements to promote well-being

The Shadow Council or the Shadow Executive, in order to promote the economic, social and environmental well being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body

2. Joint Arrangements

- (a) The Shadow Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any participating authorities, or advise the Shadow Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Shadow Executive may establish joint arrangements with one or more local authorities to exercise functions, which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Shadow Executive may only appoint Shadow Executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Shadow Executive may appoint members to a joint committee from outside the Shadow Executive if the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Shadow Executive may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area. The political balance rules do not apply in this circumstance.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Shadow Council's scheme of delegations in Part 3 of this Constitution.

3. Access to Information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

4. Delegation to and from other local authorities

- (a) The Shadow Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Shadow Executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Shadow Council meeting.

5. Contracting out

The Shadow Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994 or under contracting arrangements where the contractor acts as the Shadow Council's agent under usual contracting principles, provided there is no delegation of the Shadow Council's discretionary decision-making.

ARTICLE 12 – OFFICERS

1. Management Structure

- (a) **General.** The Shadow Council may appoint such Chief Officers or other staff as may be required to carry out the functions prescribed in the Implementation Order.
- (b) **Interim Head of Staff, Interim Monitoring Officer and interim Chief Finance Officer.** The Shadow Council will designate the following posts as shown.

Post Interim Head of Staff Interim Monitoring Officer Interim Chief Finance Officer

Such posts will have the functions described in Article 12.02-12.04 below.

- (c) **Head of Paid Service, Monitoring Officer, Chief Finance Officer.** The Shadow Council may appoint before 1st April 2009 the following posts

Post Head of Paid Service Monitoring Officer Chief Finance Officer
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2. Functions of the Interim Head of Staff

- (a) **Discharge of functions by the Council.** The Interim Head of Staff will report to full Shadow Council on the manner in which the discharge of the Shadow Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Interim Head of Staff may not be the Interim Monitoring Officer but may hold the post of Interim Chief Finance Officer if a qualified accountant.

3. Functions of the Interim Monitoring Officer

- (a) **Maintaining the Constitution.** The Interim Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Interim Head of Staff and Interim Chief Finance Officer, the Interim Monitoring Officer will report to the full Shadow Council (or to the Shadow Executive in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Interim Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving Reports.** The Interim Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The Interim Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The Interim Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether executive decisions are within the budget and policy framework.** The Interim Monitoring Officer will advise whether decisions of the Shadow Executive are in accordance with the budget and policy framework.
- (h) **Providing advice.** The Interim Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (i) **Restriction on posts.** The Interim Monitoring Officer cannot be the Interim Chief Finance Officer or the Interim Head of Staff.

4. Functions of the Interim Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Interim Head of Staff and the Interim Monitoring Officer, the Interim Chief Finance Officer will report to the full Shadow Council (or to the Shadow Executive in relation to an executive function) and the Shadow Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Shadow Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Interim Chief Finance Officer will have responsibility for the administration of the financial affairs of the Shadow Council.
- (c) **Contributing to corporate management.** The Interim Chief Finance Officer will contribute to the corporate management of the Shadow Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Interim Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Interim Chief Finance Officer will provide financial information to the media, members of the public and the community.

5. Duty to provide sufficient resources to the Interim Monitoring Officer and Interim Chief Finance Officer

The Shadow Council will provide the Interim Monitoring Officer and Interim Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

6. Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

7. Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

ARTICLE 13: DECISION MAKING

1. Responsibility for decision-making

The Shadow Council will issue and keep up to date a record of what part of the Shadow Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

2. Principles of decision-making

All decisions of the Shadow Council will be made in accordance with the following principles:-

- (a) proportionality (i.e. the action proposed must be proportionate to the desired outcome);
- (b) consideration of all options available;
- (c) professional advice taken from officers;
- (d) consideration of the outcome of any consultation;
- (e) having respect for human rights;
- (f) a presumption in favour of openness;
- (g) only relevant matters to be taken into account;
- (h) due weight to be given to all material considerations; and
- (i) proper procedures shall be followed.

3. Types of decision

- (a) Decisions reserved to full Shadow Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Shadow Council and not delegated.
- (b) Key decisions:
 - (i) A key decision means an executive decision which, is likely:
 - (a) To result in the Shadow Council incurring expenditure which is, or the making of savings which are significant (namely £500,000 or above per annum) having regard to the budget for the service or function to which the decision relates; or

- (b) To be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the Shadow Council.
- (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

4. Decision making by the full Shadow Council

Subject to Article 13.08, the Shadow Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

5. Decision making by the Shadow Executive

Subject to Article 13.08, the Shadow Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

6. Procedures of the Scrutiny Committee

The Scrutiny Committee will follow the Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

7. Decision making by other committees and sub-committees established by the Shadow Council

Subject to Article 13.08, other Shadow Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

8. Decision making by Council bodies acting as tribunals

The Shadow Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial in Article 6 of the European Convention on Human Rights.

ARTICLE 14 – Finance, Contracts and Legal Matters

1. Financial Management

The management of the Shadow Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

2. Contracts

Every contract made by the Shadow Council will comply with the Procurement Procedure Rules set out in Part 4 of this Constitution.

3. Legal Proceedings

The Interim Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Shadow Council or in any case where the Interim Monitoring Officer considers that such action is necessary to protect the Shadow Council's interests.

4. Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Shadow Council, it will be signed by the Interim Monitoring Officer or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Shadow Council have given requisite authority to some other person.

Any contract with a value exceeding £60,000, entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must be signed in accordance with the provisions of the Procurement Procedure Rules.

5. Sealing of Documents

Authority

The Common Seal of the Shadow Council shall not be affixed to any document unless the sealing has been properly and lawfully authorised. A resolution of the Shadow Council (or of a Committee or Sub-Committee where such body has the power) or a decision of the Shadow Executive or an officer with the proper delegated authority authorising the acceptance of any tender, the purchase, sale, letting, or taking of any property, the issue of any stock, the presentation of any petition, memorial or address, the making of any rate of contract, or any other matter or thing, shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

6. Attestation

The seal shall be attested by the Interim Monitoring Officer or his/her authorised deputy, designated for this purpose, as required by this Constitution and a record of the sealing of every document shall be kept.

The Common Seal of the Shadow Council will be kept in a safe place in the custody of the Interim Monitoring Officer.

7. Signature of Documents

Subject to special requirements relating to contracts, where any document will be a necessary step in any legal process or proceedings on behalf of the Shadow Council it shall, unless any enactment otherwise requires or authorises, or the Shadow Council shall have given the necessary authority to some other person for the purpose of such process or proceedings, be signed by the Interim Monitoring Officer or his/her authorised deputy (designated for this purpose).

ARTICLE 15 - Review and Revision of the Constitution

1. Duty to Monitor and Review the Constitution

The Interim Monitoring Officer will monitor and review the operation of this Constitution to ensure that the aims and principles of the Constitution are given full effect.

2. Changes to the Constitution

The Interim Monitoring Officer, in consultation with the Chairman and/or Leader of the Shadow Council, may amend the Constitution to reflect changes in legislation or any other changes required to achieve the objectives of the Implementation Order. The Shadow Executive or any committee may, at any time, make recommendations to the Shadow Council for the amendment of the Constitution in so far as it affects their responsibilities.

ARTICLE 16 - Suspension, Interpretation and Publication of the Constitution

1. Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Shadow Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved; taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following rules may be suspended in accordance with Article 16.01:

Any Rule may be suspended by resolution of the Shadow Council so far as regards any business at a meeting of the Shadow Council where its suspension is moved except for those Rules governed by statutory requirements.

Any motion for a suspension shall state the specific Rule(s), which it is intending to suspend.

2. Interpretation

The ruling of the Chairman of the Shadow Council as to the construction or application of this Constitution or as to any proceedings of the Shadow Council shall not be challenged at any meeting of the Shadow Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

3. Publication

- (a) The Interim Monitoring Officer will give a printed copy of this Constitution to each member of the Shadow Council as soon as practicable following delivery to him/her of that individual's declaration of acceptance of office on the member first being elected or appointed to the Shadow Council.
- (b) The Interim Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

- (c) The Interim Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Scrutiny Committee) and the Scrutiny Procedure Rules;
2. Article 7 (The Shadow Executive) and the Executive Procedure Rules;
3. Article 10 (Area Committees and Forums);
4. Article 11 (Joint arrangements);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).

PART 3

LOCAL GOVERNMENT ACT 2000

CONSTITUTION OF CENTRAL BEDFORDSHIRE SHADOW COUNCIL

RESPONSIBILITY FOR FUNCTIONS

RESPONSIBILITY FOR FUNCTIONS

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PART 3 - RESPONSIBILITY FOR FUNCTIONS

1. INTRODUCTION

- 1.1 The Bedfordshire (Structural Changes) Order 2008 (“the Implementation Order”) provides for the establishment, on 1 April 2009, of a single tier of local government within the Shadow Council’s area.

With effect from 1 April 2009, the County of Bedfordshire and the districts of South and Mid Bedfordshire will be abolished.

With effect from the date of the making of the Implementation Order the Shadow Council will operate as a “shadow authority”, as defined in the Order, having the functions set out in Part 5 of the Order.

With effect from 1 April 2009 the Shadow Council will become Central Bedfordshire Council.

In particular, the Shadow Council will have the following responsibilities:

- 1.1.1 to commence and sustain its running as a shadow authority;
 - 1.1.2 to prepare the Shadow Council for the assumption as Central Bedfordshire Council of local government functions and full local authority functions and powers on 1st April 2009;
 - 1.1.3 to prepare any budgets or plans required by Central Bedfordshire Council when those functions and powers are assumed;
 - 1.1.4 to liaise with Bedfordshire County Council and the district councils for the purposes of ensuring continuity of public service delivery on and after 1 April 2009; and
 - 1.1.5 to exercise any of the Local Government Act 1972 functions referred to in, and in accordance with Part 5 of the Order.
- 1.2 The powers and functions of the Shadow Council are therefore limited and, consequently, the powers and functions of the Shadow Executive, committees, sub-committees and other decision-making bodies are similarly limited. The responsibilities for functions described in this part of the Constitution must therefore be considered in this context. However, upon the assumption of full local authority functions and powers on 1st April 2009, these responsibilities will increase. Until that date, Bedfordshire County Council and the district councils within the Shadow Council’s area will continue to have responsibility for local authority functions within their areas.

- 1.3 The Implementation Order provides that, except to the extent that any provision of any Act, the Order or Section 13 of the Local Government Act 2000 requires otherwise, the functions conferred on the Shadow Council by or under the Order will be delegated to and discharged by the Shadow Executive.
- 1.4 The Shadow Council is required in this Constitution to set out the allocation of responsibilities for its functions.
- 1.5 The following paragraphs cover functions which are
- the responsibility of the Shadow Council and/or its committees/sub-committees
 - the responsibility of the Shadow Executive
 - the responsibility of officers.

2. EXECUTIVE ARRANGEMENTS

- 2.1 Section 13 of the Local Government Act 2000 provides that all the functions of the Shadow Council shall be functions of the Shadow Executive except in so far as they are reserved to the Shadow Council by the Local Government Act 2000 ("the Act") by other or subsequent legislation or by regulations made under the Act.
- 2.2 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the Regulations') define those functions:
- (a) which must not be discharged by the Shadow Executive;
 - (b) which may be the responsibility of the Shadow Executive;
 - (c) which may not be the sole responsibility of the Shadow Executive; and
 - (d) circumstances in which functions which would otherwise be functions of the Shadow Executive fall to be discharged other than by the Shadow Executive.

- 2.3 The Shadow Council therefore only has discretion to define the split of functions between the Shadow Council (“council functions”) and the Shadow Executive (“executive functions”) in respect of those which fall within categories b) and c) above. The Implementation Order provides that, unless otherwise required by statute, the functions conferred on the Shadow Council shall be delegated to the Shadow Executive. Accordingly, where a function is not specified as being the responsibility of the Shadow Council, a committee, sub-committee, or officer that function shall, unless otherwise provided to the contrary by law, be the responsibility of the Shadow Executive.

3. FUNCTIONS OF THE SHADOW COUNCIL

- 3.1 The following functions are the responsibility of the Shadow Council and will be discharged by the full Shadow Council unless delegated to another committee or body under this Constitution or by the Bedfordshire (Structural Changes) Order 2008.

1. To adopt the Shadow Council’s Constitution in accordance with the requirements of the Local Government Act 2000.
2. To appoint to the following offices
 - Chairman of the Shadow Council
 - Vice-Chairman of the Shadow Council
 - Members of the Shadow Executive
 - Chairmen and Vice-Chairmen of committees and sub-committees
 - such other offices as may be required under this Constitution or by the Shadow Council.
3. To exercise any “local choice” functions reserved to the Shadow Council.
4. To adopt the Shadow Council’s Code of Conduct for Members and the Protocol on Member/Officer Relations and to formulate proposals for the Code of Conduct to be adopted by Central Bedfordshire Council.
5. To agree the establishment and composition of, and make appointments to committees and sub-committees, other than any which may be established within the Shadow Executive, and to agree their terms of reference.
6. To approve the creation of a leader and cabinet executive in accordance with Article 16 of the Implementation Order.
7. To formulate proposals for the executive arrangements to be adopted by the Central Bedfordshire Council.

8. To approve the budget and policy framework which will be required by Central Bedfordshire Council when it assumes full local authority powers on 1 April 2009.
9. To consider any matter which has been referred or submitted to it by the Shadow Executive or a committee.
10. To approve any Members' Allowance Scheme for operation during the shadow period following advice from an Independent Remuneration Panel.
11. To formulate proposals for the Members Allowances' Scheme to be adopted by Central Bedfordshire Council including any pension provision for elected Members following advice from an Independent Remuneration Panel.
12. To appoint/dismiss the Head of Paid Service and designate officers to act as Interim Head of Staff, Interim Monitoring Officer and Interim Chief Finance Officer.
13. To consider any other matter to be discharged in connection with the Shadow Council's responsibilities which is required by law to be reserved to the full Shadow Council.

4. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Function	Proposed Allocation
1. Determining appeals against any decision made by or on behalf of the Shadow Council.	The Appointments and Appeals Committee.
2. Appointing Members to the Police Authority.	The Shadow Executive - (but officers may be authorised under delegated powers).
3. Appointing to outside bodies and joint committees	The Shadow Executive (but may be dealt with by officers under delegated powers).
4. Making agreements to place staff at disposal of other local authorities.	The Shadow Executive

Function	Proposed Allocation
5. All other local choice functions as set out in Schedule 2 to Regulation 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended which are required to be exercised by the Shadow Council in the discharge of its duty to prepare for the implementation of the Central Bedfordshire Council as provided in the Implementation Order.	The Shadow Executive (but may be dealt with by officers under delegated powers).

5. RESPONSIBILITY FOR COUNCIL FUNCTIONS

(Note: the exercise of functions included within this section may be delegated to the Interim Head of Staff, Interim Monitoring Officer, Interim Chief Finance Officer and other officers as set out in the Scheme of Delegation to Officers in Section 5).

Standards Committee	All those existing elected and independent (but not town/parish) members of the MBDC and SBDC Standards Committees, together with three elected and three independent members nominated by the existing BCC Standards Committee.	Functions referred to in the Act (together with the additional functions approved by the Council) which are described in Article 9 of this Constitution.
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Appointment and Appeals Committee	4 members of the Shadow Council, including at least 1 member of the Shadow Executive	<ol style="list-style-type: none"> 1. To recommend the Shadow Council as to the appointment of the Head of Paid Service in accordance with the Officer Employment Procedure Rules set out in Part 4 of this Constitution. 2. To appoint Chief Officers and Deputy Chief Officers in accordance with the Officer Employment Procedure Rules set out in Part 4 of this Constitution. 3. To act on the Shadow Council's behalf in relation to the hearing and deciding of any appeal by an employee in accordance with Local or National Conditions of Service.
General Purposes Committee	9 members of the Shadow Council	<ol style="list-style-type: none"> 1. To exercise any non-executive functions which are not reserved to the full Shadow Council or otherwise delegated which may need to be exercised by the Shadow Council in the discharge of its duty to prepare for the implementation of the Central Bedfordshire Council as provided in the Implementation Order.

6. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

Responsibility	Membership	Functions
The Shadow Executive	12 councillors, being four each from BCC, MBDC and SBDC, with the Chairman being the Leader of MBDC, the Vice-Chairman being appointed by the Leader	<ol style="list-style-type: none"> 1. To exercise all the functions of the Shadow Council as provided in the Implementation Order except in so far as reserved to the Shadow Council by legislation or this Constitution (including functions defined as Council Functions or Local Choice functions which are not allocated to the Shadow Executive). 2. To formulate plans or strategies for the approval of the Shadow Council which are part of the budget and policy framework or otherwise within the powers contained in the Regulations.
Portfolio holders		Whilst no individual portfolio holders' powers exist at present, the Leader has authority to amend the delegation of executive functions.

**SCHEME OF DELEGATION BY THE SHADOW COUNCIL
AND BY THE SHADOW EXECUTIVE
TO INTERIM OFFICERS**

Section A

GENERAL CONDITIONS AND LIMITATIONS

1. The functions, powers and duties in this scheme are delegated to officers as shown in Section B. These include the power to do anything which is calculated to facilitate, or is conducive to, the discharge of these functions.
2. All officers are to act in accordance with the Shadow Council's Constitution, Procedure Rules (particularly Procurement and Financial Procedure Rules) and any protocols or other arrangements approved in pursuance of them;
3. The following functions are not delegated to any officer:
 - (a) any matter reserved to full Shadow Council, the Shadow Executive or any other committee or a member body having decision making powers, or any matter constituting a key decision;
 - (b) any function which by law may not be delegated to an officer; and
 - (c) the adoption of the policy framework and budget of Central Bedfordshire Council.
4. When functions are delegated to an officer, the Shadow Executive (in relation to an executive function), or (in relation to non-executive functions), the Shadow Council, relevant Committee or other member body with decision- making powers may specify that a particular decision shall not be exercised by an officer but be reserved or referred to the Shadow Council, Shadow Executive or other member body as the case may be.
5. In exercising delegated powers, the relevant officer shall consult with such officers as appropriate and have regard to any advice given and in particular seek appropriate advice from the Interim Head of Staff, the Interim Monitoring Officer and the Interim Chief Finance Officer or other officer as appropriate in relation to a professional judgment required in any area in which he/she is not professionally qualified.

6. It is open to an officer to consult with appropriate councillors (such as the Leader of the Council, group leaders or relevant portfolio holder, or chairman of any other relevant committee or panel, as the case may be) on the exercise of delegated powers or in deciding whether or not to exercise any delegated powers where a matter is likely to be controversial or contentious.

Section B

DELEGATIONS TO INDIVIDUAL INTERIM OFFICERS

INTERIM HEAD OF STAFF

1. To be Interim Head of Staff under article 17(c) of the Implementation Order responsible for performing in relation to the Shadow Council, the duties imposed by subsections (2), (4) and (5) of Section 4 of the Local Government and Housing Act 1989. The functions of this role are set out in article 12.02 of the Constitution.
2. To be the proper officer for the purposes of all legislation relevant to the functions of the Shadow Council, except where otherwise provided or where functions are specifically reserved to either the Interim Monitoring Officer or the Interim Head of Finance under their statutory powers.
3. To exercise
 - (a) any non-executive functions which are not reserved to the Shadow Council or otherwise delegated, and
 - (b) any executive functions, pending the Leader agreeing any scheme of delegation of executive functions,

which may need to be exercised by the Shadow Council in the discharge of its duty to prepare for the implementation of Central Bedfordshire Council as provided in the Implementation Order.
4. In accordance with the General Conditions and Limitations set out in A above, to take any decisions which could be taken by the Shadow Executive or a committee or sub-committee, and which on grounds of urgency needs to be taken before the next scheduled meeting of the Shadow Executive or such committee or sub-committee, in consultation with the Leader and/or relevant portfolio holder or chairman as appropriate.
5. To delegate further, in writing, all of any of his/her delegated functions to other officers to exercise in their name.

PART 4

LOCAL GOVERNMENT ACT 2000

CONSTITUTION OF CENTRAL BEDFORDSHIRE SHADOW COUNCIL

RULES AND PROCEDURES

COUNCIL PROCEDURE RULES

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COUNCIL PROCEDURE RULES

1. FIRST MEETING OF THE SHADOW COUNCIL

1.1 Timing and Business

The first meeting will:

- (i) elect the Chairman of the Shadow Council;
- (ii) appoint the Vice-Chairman of the Shadow Council;
- (iii) receive any announcements from the Chairman;
- (iv) approve the executive arrangements and appoint members of the Shadow Executive;
- (v) appoint a Scrutiny Committee, a General Purposes Committee, an Appointments and Appeals Committee and the Chairmen/Vice-Chairmen of those committees and to appoint a Standards Committee;
- (vi) designate the interim statutory officers (Head of Staff, Monitoring Officer, Chief Finance Officer);
- (vii) adopt a Members' Code of Conduct;
- (viii) agree the scheme of delegation or such part as the Constitution determines it is for the Shadow Council to agree (as set out in Part 3 of the Constitution);
- (ix) approve a programme of ordinary meetings of the Shadow Council for the year; and
- (x) consider any other business set out in the notice convening the meeting.

2. ORDINARY MEETINGS

Ordinary meetings of the Shadow Council will take place in accordance with a programme decided at the Shadow Council's first meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (ii) approve the minutes of the last meeting;

- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Chairman and Leader;
- (v) deal with any statutory business (including any review of the allocation of seats in accordance with the political balance rules);
- (vi) deal with any business from the last Shadow Council meeting;
- (vii) receive reports, minutes and any recommendations from the Shadow Executive and the Shadow Council's committees and receive questions and answers and any comments on any such matters;
- (viii) consider motions under Rule 9 in the order received;
- (ix) consider any other business specified in the summons to the meeting, including consideration of proposals from the Shadow Executive in relation to the Shadow Council's budget and policy framework and any reports of the scrutiny committee for debate;
- (x) receive questions from Members in accordance with Rule 8.

The order of business, subject to any statutory provision, may be varied by the Chairman at his discretion, or by resolution passed on a motion moved and seconded and put without discussion.

3. EXTRAORDINARY MEETINGS

1. Calling extraordinary meetings

Those listed below may request the Interim Head of Staff to call Shadow Council meetings in addition to ordinary meetings:

- (i) The Shadow Council by resolution;
- (ii) The Chairman of the Shadow Council;
- (iii) The Interim Monitoring Officer; or
- (iv) Any five members of the Shadow Council if they have signed a requisition presented to the Chairman of the Shadow Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

2. Business

The business shall be restricted to such items contained in the agenda for the meeting.

4. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined at the first meeting of the Shadow Council and notified in the summons.

5. NOTICE OF SUMMONS TO MEETINGS

The Interim Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Interim Monitoring Officer will send a summons signed by him or her by post to every member of the Shadow Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the chairman also include the chairman of committees and sub-committees.

7. QUORUM

The quorum of a meeting will be one quarter of the whole number of members (31). If the meeting lacks a quorum at any stage, its business will be adjourned to an agreed date and time or to the next ordinary meeting.

8. QUESTIONS BY MEMBERS

1. On reports or minutes of the executive or committees

A member of the Shadow Council may ask the Leader, a Shadow Executive member, or the chairman of a committee (or of a body referred to in Rule 8 (2)), any question without notice upon an item of the report of the Leader or Shadow Executive member or minutes of a committee when that item is being received or under consideration by the Shadow Council.

2. Questions on notice at full Council

Subject to Rule 8 (3), a member of the Shadow Council may ask:

- the Chairman
- a member of the Shadow Executive
- the chairman of any committee or sub-committee

a question on any matter in relation to which the Shadow Council has powers or duties.

3. Notice of questions

A member may only ask a question under Rule 8 (2) if either:

- (a) They have given at least 3 clear working days written notice of the question to Interim Monitoring Officer or;
- (b) The question relates to urgent matters, they have the consent of the Chairman (or other member) to whom the question is to be put and the content of the question is given to the Interim Monitoring Officer by 9.00 am on the day of the meeting.

4. Response

An answer may take the form of:

- (i) A direct oral answer;
- (ii) Where the desired information is in a publication of the Shadow Council or other published work, a reference to that publication; or
- (iii) Where the reply cannot be conveniently given orally, a written answer either circulated at the meeting or circulated later to the questioner.

Each question shall be put and answered in turn without discussion.

5. Supplementary question

A member asking a question under Rule 8 (2) may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

6. Time limit

The time allocated for questions on notice to the Leader and Shadow Executive members shall be 15 minutes (subject to the Chairman's discretion to extend this period).

9. MOTIONS ON NOTICE

1. Notice

Except for motions which can be moved without notice under Rule 10, written notice of every motion, signed by the member of the Shadow Council, must be delivered to the Interim Monitoring Officer not later than 10 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

2. Motions set out in agenda

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

3. Scope

Motions must be about matters for which the Shadow Council has responsibility.

10. AUTOMATIC REFERENCE TO SHADOW EXECUTIVE OR A COMMITTEE

If the subject matter of the motion is within the remit of the Shadow Executive or a committee, upon being moved and formally seconded, it shall stand referred without discussion to the Shadow Executive or such committee as the Shadow Council may determine.

The Shadow Council may permit a motion to be dealt with at the meeting at which it is brought forward, provided that the subject matter is urgent or that it is appropriate to deal with the matter and it does not seek to determine a matter which is the responsibility of the Shadow Executive, subject to proper information regarding the matters referred to above.

11. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate committee or individual;

- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw or amend a motion;
- (h) to proceed to the next business;
- (i) 'that the question be now put';
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) to extend the time limit for speeches;
- (m) to suspend a particular council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; or
- (p) to give the consent of the Shadow Council where its consent is required by this Constitution.

12. RULES OF DEBATE

1. No speeches until motion seconded

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

2. Right to require motion in writing

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

3. Secunder's speech

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

4. Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes in the case of the mover of a motion and 3 minutes in all other cases without the consent of the Chairman.

5. When a member may speak again

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

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

6. Amendments to motions

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

But no amendment may be moved which would have the effect as voting against the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.

- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

7. Alteration of motion

With the consent of the Shadow Council, a Member may alter a motion of which notice has been given or (with the consent of the seconder) alter a motion which he/she has moved, subject to such alterations being ones which could be made as amendments.

8. Withdrawal of motion

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

9. Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of an amendment has the right of reply at the close of the debate on the amendment prior to the right of reply of the mover of the original motion under (b) above.
- (d) No right of reply shall normally exceed one minute in length.

10. Motions which may be moved during debate

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

- (a) To withdraw a motion;
- (b) To amend a motion;
- (c) To proceed to the next business;
- (d) That the question be now put;

- (e) To adjourn a debate;
- (f) To adjourn a meeting;
- (g) To suspend these Rules in accordance with Rule 19 (1) below.
- (h) To exclude the public and press in accordance with the Access to Information Rules; and
- (i) To not hear further a member named under Rule 17 (3) or to exclude them from the meeting under Rule 17 (4).

11. Closure motions

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

12. Point of order

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

13. Personal explanation

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

13. PREVIOUS DECISIONS AND MOTIONS

1. Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of the Shadow Council within the past six months cannot be moved unless the notice of motion is signed by at least one quarter of the members of the Shadow Council (31).

2. Motion similar to one previously rejected

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

3. Recommendation of the Executive or a Committee

The provisions of 1 and 2 above shall not apply where the motion is moved as a recommendation of the Shadow Executive or a committee.

14. VOTING

1. Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put. Subject to 13.2 below, each member shall be entitled to one vote only, notwithstanding that he/she may be a member of more than one local authority.

2. Chairman's casting vote

If there are equal numbers of votes for and against, the chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote.

3. Show of hands

Unless a secret ballot is held under Rule 13.4 or a recorded vote is demanded under Rule 13.5, the chairman will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

4. Secret Ballot

A secret ballot will be held to elect or appoint the Chairman and Vice-Chairman of the Shadow Council where more than one person is nominated.

If a secret ballot is held and no person receives more than half of the votes cast, the name of the person with the least number of votes will be withdrawn. Further ballots will be held until one person receives a clear majority.

5. Recorded vote

Where a member, supported by a quarter of the members present, requests, a vote shall be taken by roll call and recorded. Such record shall include those who vote for and against the issue and those who abstain.

6. Right to require individual vote to be recorded

Where any member requests it immediately after a vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

7. Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

15. MINUTES

1. Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as an accurate record. The only part of the minutes that can be discussed is their accuracy.

2. No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41 (1) and (2) of schedule 12 relating to signing of minutes.

3. Form of minutes

Minutes will contain all motions and amendments in the exact form and order as put to the meeting.

16. RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

17. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 19 (Disturbance by Public).

18. MEMBERS' CONDUCT

1. Standing to speak

When a member speaks at full Shadow Council they must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

2. Chairman Standing

When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

3. Member not to be heard further

If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

4. Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

5. General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

19. DISTURBANCE BY PUBLIC

1. Removal of member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

2. Clearance of part of a meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared, and may adjourn the meeting for 15 minutes or other suitable period.

20. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

1. Suspension

All of these Council Rules of Procedure except Rules 13.6, 14.2, 17.2, 17.5 and 18.1 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Shadow Council are present. Suspension can only be for the duration of the meeting.

2. Amendment

Any motion to add, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Shadow Council.

21. COMMITTEES: APPOINTMENT AND CONSTITUTION

1. At its first meeting the Shadow Council will appoint a Scrutiny Committee, a Standards Committee, a General Purposes Committee and an Appointments and Appeals Committee and agree the size and political composition of those bodies and appoint the Chairman, Vice-Chairman and members of those bodies. The Standards Committee shall appoint its own Chairman who shall be one of the independent persons serving upon that Committee.
2. Such appointments will normally continue for the life of the Shadow Council except where:
 - (a) The Shadow Council is required, or decides, to review the allocation of seats between political groups on any forum; or
 - (b) The political group to whom a seat has been allocated wishes to vary the appointment.
3. Where a review referred to in paragraph 20.2 above is necessary, the Interim Monitoring Officer will submit a report to the Shadow Council showing the allocation of seats to best meet the statutory requirements in order to permit the Shadow Council to agree the allocation of seats to political groups.
4. The appropriate group leader or deputy group leader will notify the Interim Monitoring Officer by formal notice of any changes in membership of any committee or outside body for report to the next meeting of the Shadow Council for information. Such notice shall be handed to the Interim Monitoring Officer or his/her nominee prior to the commencement of the forum in question to enable it to have effect for that meeting.

22. APPLICATION TO THE SHADOW EXECUTIVE, COMMITTEES AND SUB-COMMITTEES

1. All of the Council Rules of Procedure apply to meetings of full Shadow Council.
2. The Shadow Executive has its own Procedure Rules.
3. The Council Rules of Procedure shall also apply to committees as appropriate. However the quorum at a meeting of the Standards Committee shall be 4 members including at least one independent person serving on that committee. Where at least one independent person would have been present for the duration of the meeting but for the fact that he/she was prevented from participating in any business under the provisions of the Members' Code of Conduct, the requirement for the quorum to include at least one independent person shall not apply.
4. A member of the Shadow Council who is not otherwise entitled to speak at a committee shall be entitled to do so (but not to vote) at a meeting of the committee other than the Shadow Executive:
 - (a) with the agreement of the Chairman given prior to the commencement of the meeting; or
 - (b) in any other case where the Chairman considers that there are special circumstances.
5. A member who is not a member of the Shadow Executive will not normally be entitled to speak at meetings of the Shadow Executive.

ACCESS TO INFORMATION PROCEDURE RULES

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ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Shadow Council, the Scrutiny Committee, the Standards Committee, other committees and meetings of the Shadow Executive (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

The Shadow Council will give at least five clear days notice of any meeting by posting details of the meeting at the relevant Council offices.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Shadow Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

6. SUPPLY OF COPIES

The Shadow Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Interim Monitoring Officer thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

The Shadow Council will make available copies of the following for six years after a meeting:

- (a) the minutes or records of decisions taken, together with reasons, for all meetings of the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of the proceedings not open to the public where minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

1. List of background papers

The Interim Monitoring Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

2. Public inspection of background papers

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

9. SUMMARY OF PUBLIC'S RIGHTS

The Shadow Council is required to keep and make available to the public a written summary of the public's rights to attend meetings and to inspect and copy documents. These Rules constitute the written summary.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

1. There are two legal circumstances where meetings can be conducted in private without the public present. The first circumstance is whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, the confidential information would be disclosed.
2. Confidential information is defined in section 100(3) of the Local Government Act 1972 as inserted by section 1(1) of the Local Government (Access to Information) Act 1985, that information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by virtue of any enactment or by Court Order. When this situation arises the law requires that the public must be excluded from the meetings.
3. The second legal circumstance is whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed.
4. Exempt information has the meaning ascribed to it under Schedule 12A of the Local Government Act 1972, as amended by Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006, the Local Government (Access to Information) (Variation) Order 2006 and the relevant authorities (Standards Committee) (Amendment) Regulations 2006 which, for convenience, is set out in a table below.
5. When the second situation arises the law provides that the public may be excluded from the meeting by resolution of that meeting.

Category	Qualification
1. Information relating to any individual	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Exempt information if and so long as in all the circumstances of the case. the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

Category	Qualification
2. Information which is likely to reveal the identity of an individual	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978 (e) the Building Societies Act 1986 (e) the Charities Act 1993
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Shadow Council or a Minister of the Crown and employees of, or office holders under, the Shadow Council.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Category	Qualification
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
Description of Exempt Information relating to Standards committee	Qualification
7a Information which is subject to any obligation of confidentiality.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7b Information which relates in any way to matters concerning national security.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Category	Qualification
7c The deliberations of a standards committee or a sub-committee established under the provisions of part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Public Interest Test

The above information is only exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The Interim Monitoring Officer or his/her appointed representative shall determine the public interest case.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Interim Monitoring Officer thinks fit, the Shadow Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed

12. APPLICATION OF RULES TO THE EXECUTIVE

Rules 13-24 apply to the executive and its committees. If the Shadow Executive or its committees meet to take a key decision then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13(3) of this Constitution.

If the Shadow Executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13(3) of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. THE FORWARD PLAN

1. Period of forward plan

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

2. Contents of forward plan

The forward plan will contain matters which the Leader has reason to believe will be subject to a key decision to be taken by the Shadow Executive, a committee of the Shadow Executive, individual members of the Shadow Executive, officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;

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

The forward plan must be published at least 14 days before the start of the period covered. The Interim Monitoring Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Shadow Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Shadow Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and

- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Shadow Council's offices.

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

15. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the chairman of the Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the proper officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public.

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of the Scrutiny Committee, or if the chairman of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.

17. POWER TO REQUIRE REPORT TO COUNCIL

1. Reports to Council where the key decision process has not been followed

If the Scrutiny Committee thinks that a key decision has been taken which was not treated as being a key decision, it may require the Shadow Executive to submit a report to the Shadow Council within such a reasonable time as the committee specifies, setting out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

2. Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Shadow Council on the Shadow Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORDS OF DECISIONS

After any meeting of the Shadow Executive or any of its committees, whether held in public or private, the Interim Monitoring Officer or, where no officer was present, the person presiding at the meeting will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. DECISIONS BY INDIVIDUAL MEMBERS OF THE SHADOW EXECUTIVE

1. Reports intended to be taken into account

Where an individual member of the Shadow Executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

2. Provision of copies of reports to the scrutiny committee

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chairman of the Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

3. Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Shadow Executive or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provision of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

20. SCRUTINY COMMITTEE - ACCESS TO DOCUMENTS

1. Rights to copies

Subject to rule 20.2 below, the Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Shadow Executive or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the Shadow Executive or its committees; or
- (b) any decision taken by an individual member of the Shadow Executive.

2. Limit on rights

The Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

1. Rights of Non Members to Attend

The rights of a member of the Shadow Council to attend meetings of which he or she is not a member is set out in Rule 21(4) of the Council Procedure Rules).

2. Material Relating to Previous Business

All members will be entitled to inspect any document which is in the possession or under the control of the Shadow Executive or its committees and contains material relating to any business previously transacted at a private meeting unless either (a), (b) or (c) below applies;

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract;
or
- (b) it contains the advice of a political adviser.

3. Material Relating to Decisions on Key Issues

All members of the Shadow Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Shadow Executive or its committees which relates to any decision on a key issue unless paragraph (a) or (b) of 2 above applies.

4. Nature of Rights

These rights of a member are additional to any other right he/she may have.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

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BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The framework for Central Bedfordshire Council

The Shadow Council will be responsible for the adoption of a budget and policy framework for implementation by Central Bedfordshire Council after 1 April 2009.

2. Process for developing the framework

- (a) The Shadow Executive will publicise by including in the forward plan a timetable for making proposals to the Council for the adoption of any plan or strategy that forms part of the budget and policy framework, and its arrangements for consultation after publication of its initial proposals. The timetable for consideration and consultation on the capital and revenue budget will be included in the forward plan. The chairman of the Scrutiny Committee will also be notified of the forward plan, the timing of the Shadow Executive's initial proposals on any plan or strategy that forms part of the policy framework, and the timetable for deliberation on the budget. At least four weeks will be allowed from the publication of the initial proposals for consultation.
- (b) At the end of that consultation period, the Shadow Executive will draw up firm proposals having regard to the responses to that consultation. If the Scrutiny Committee wishes to respond to the Shadow Executive in that consultation process then it may do so. It is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Shadow Executive will take any response from the Scrutiny Committee into account in drawing up firm proposals for submission to the Shadow Council, and its report to the Shadow Council will include a summary of the comments made by those who responded to consultation and the Shadow Executive's response.
- (c) Once the Shadow Executive has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Shadow Council for decision.

- (d) In reaching a decision, the Shadow Council may adopt the Shadow Executive's proposals, but if the Shadow Council has any objections to the Shadow Executive's proposals, then before it amends, approves or adopts any plan, strategy or budget, it must inform the Leader of those objections and require the Shadow Executive to reconsider. The Shadow Executive may, within such reasonable period as the Interim Monitoring Officer may determine (but which shall not be less than 5 working days) submit revised proposals or inform the Shadow Council of the Shadow Executive's disagreement with the Shadow Council's objections and the reasons for this. Once that period has expired, the Shadow Council in amending, approving or adopting any plan, strategy or budget, must take into account any revised proposals and the views of the Shadow Executive.

In the case of budget proposals submitted to the Shadow Council after 8 February in any financial year and any budget proposals submitted following designation or nomination by the Secretary of State then the Shadow Council may amend, approve or adopt the Shadow Executive's proposals and need not require the Shadow Executive to reconsider.

- (e) All decisions will be made the Shadow Council on the basis of a simple majority of votes cast at the meeting.
- (f) In approving the budget and policy framework, the Shadow Council will also specify the extent of virement within the budget and the degree of in-year changes to the policy framework which may be undertaken by the Shadow Executive, in accordance with paragraphs 5 and 6 of these Rules. Any other changes to the policy and budgetary framework are reserved to the Council.

EXECUTIVE PROCEDURE RULES

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EXECUTIVE PROCEDURE RULES

1. HOW DOES THE EXECUTIVE OPERATE?

1. Who may make executive decisions?

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the Shadow Council and contained in Part 3 of the Constitution. They may provide for executive functions to be discharged by:

- (a) the executive as a whole;
- (b) a member of the executive;
- (c) a committee of the executive;
- (d) an officer of the one of the existing councils; or
- (e) any joint committee or other local authority.

2. Delegation of Functions

The Leader will present to the Shadow Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions during the transitional period:

- (a) the extent of any authority delegated to Shadow Executive members individually, including details of the limitation of their authority;
- (b) the terms of reference and Constitution of such Shadow Executive committees as the Leader appoints and the names of Shadow Executive members appointed to them;
- (c) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Shadow Executive members appointed to any joint committee for the coming year; and
- (d) the nature and extent of any delegation to officers with details of any limitation on that delegation and the title of the officer to whom the delegation is made.

3. Sub-delegation of executive functions

- (a) Unless the Leader directs otherwise, where the Shadow Executive, a committee of the Shadow Executive or an individual member of the Shadow Executive is responsible for an executive function, they may delegate further to an officer.
- (b) Unless the Leader directs otherwise, if the Leader delegates functions to the Shadow Executive, then the Shadow Executive may delegate further to a committee of the Shadow Executive or to an officer.
- (c) Unless the Leader directs otherwise, a committee of the Shadow Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

4. Delegation of Executive Functions

- (a) The Leader may amend the Scheme of Delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Interim Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Shadow Executive as a whole. The Interim Monitoring Officer will present a report to the next ordinary meeting of the Shadow Council setting out the changes made by the Leader.
- (b) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its Chairman.

5. Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Shadow Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

- (c) If the exercise of an executive function has been delegated to a committee of the Shadow Executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

6. Executive Meetings – when and where?

The executive will meet at times and locations to be agreed by the Leader.

7. Quorum

The quorum for a meeting of the Shadow Executive shall be 4 members and a committee of it shall be one quarter of the total number of its membership or 3 whichever is the larger.

8. How are decisions to be taken by the Shadow Executive?

- (a) Executive decisions which have been delegated to the Shadow Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Shadow Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Shadow Executive as a whole.

2. HOW ARE SHADOW EXECUTIVE MEETINGS CONDUCTED?

1. Who presides?

If the Leader is present he/she will preside. In his/her absence, the Vice-Chairman of the Shadow Executive will preside or in his/her absence another member appointed to do so by those present shall preside.

2. Who may attend?

Other than the rights of non-members to attend as set out in paragraph 2 of the Council Procedure Rules, members of public may attend all meetings subject only to the exceptions in the Access to Information Procedure Rules.

3. What business?

At each meeting of the Shadow Executive the following business will be conducted:

- (i) Consideration of the minutes of the last meeting;
- (ii) Declarations of interest, if any;
- (iii) Matters referred to the Shadow Executive (whether by the Scrutiny Committee or by the Shadow Council) for reconsideration by the Shadow Executive in accordance with the provisions contained in the Scrutiny Procedure Rules set out in Part 4 of this Constitution;
- (v) Consideration of reports from the Scrutiny Committee; and
- (vi) Matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedures rules set out in Part 4 of this Constitution.

4. Consultation

All reports to the Shadow Executive from any member of the Shadow Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of any consultation with stakeholders or the Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of any consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

5. Who can put items on the Shadow Executive agenda?

- (a) The Leader will decide upon the schedule for the meetings of the Shadow Executive. He/she may put on the agenda of any Shadow Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Shadow Executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.
- (b) There will be an item on the agenda of the Shadow Executive where any matter is referred by the Scrutiny Committee. However the Shadow Executive may provide for a limit on the number of such items per Shadow Executive meeting.

- (c) The Interim Head of Staff, Interim Monitoring Officer and/or the Interim Chief Finance Officer may include an item for consideration on the agenda of a Shadow Executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Interim Head of Staff, Interim Monitoring Officer and Interim Chief Finance Officer are of the opinion that a meeting of the Shadow Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Shadow Executive meeting. If there is no meeting of the Shadow Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.
- (d) The Council Rules of Procedure which apply to committees as set out in Rule 21(3) also apply to the Shadow Executive.

SCRUTINY PROCEDURE RULES

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SCRUTINY PROCEDURE RULES

1. What will be the number and arrangements for the Scrutiny Committee?

The Council will have one Scrutiny Committee which will discharge the functions in Article 6.

2. Who may sit on the Scrutiny Committee?

All councillors, except members of the Shadow Executive, may be members of the Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

3. Co-optees

There will be no power of co-option to the Scrutiny Committee.

4. Meetings of the Scrutiny Committee

The number of ordinary meetings of the Scrutiny Committee shall be determined by the Shadow Council at its first meeting.

5. Quorum

The quorum for the Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

6. Who chairs scrutiny committee meetings?

The Chairman and Vice-Chairman of the Scrutiny Committee will be appointed by the Shadow Council at its first meeting .

7. Work programme

The powers and functions of the Shadow Council under the Implementation Order are limited to preparing the Shadow Council for the assumption of full local authority functions and powers on 1 April 2009. Consequently, the powers and functions of its Shadow Executive, committees (including the Scrutiny Committee), sub-committees and other bodies are similarly limited.

The work programme of the Scrutiny Committee must be considered in this context.

The primary business of the Scrutiny Committee will therefore be:

- (a) to receive and comment on reports (written or verbal) by each Shadow Executive portfolio holder and/or the chairman of any committee, sub-committee or member working group which reports to the Shadow Executive, on the progress of preparations for the implementation of Central Bedfordshire Council on 1 April 2009;
- (b) to review those preparations and any related decisions; and
- (c) to comment and/or make recommendations to the next meeting of the Shadow Executive, or to the Shadow Council, depending on the powers and functions they respectively discharge under the Implementation Order and the Shadow Council's Constitution.

8. Agenda items

Any member of the Scrutiny Committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the committee, as set out in Article 6, to be included on the agenda for the next available meeting of the committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda for consideration by the Scrutiny Committee and advise the Chairman of the committee of the request.

Any five members of the Shadow Council who are not members of the Scrutiny Committee may give written notice to the proper officer that they wish an item to be included on the agenda of the committee. If the proper officer receives such a notification, then he/she will include the item on the first available agenda of the Scrutiny Committee for consideration by the committee and advise the Chairman of the committee of the request.

The Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Shadow Council and, if it considers it appropriate, the Shadow Executive, to review particular areas of the Shadow Council's responsibilities. Where it does so, the committee shall report their findings and any recommendations back to the Shadow Executive (if that is the source of the request), or otherwise, to the Shadow Council. The Shadow Council and/or the Shadow Executive shall consider the report of the Scrutiny Committee within two months of receiving it, or at its next available meeting.

9. Policy review and development

The Committee may, within the scope of Article 6, advise the Shadow Executive or the Shadow Council on the development of the budget and policy framework which is to be adopted by Central Bedfordshire Council in respect of the period from 1 April 2009 onwards.

10. Reports from the Scrutiny Committee

- (a) After each of its meetings the Scrutiny Committee may submit comments and/or recommendations to the proper officer for consideration by the Shadow Executive or to Shadow Council as appropriate.
- (b) If the Scrutiny Committee cannot agree on one single final report to the Shadow Council or Shadow Executive as appropriate, then one or more minority reports may be prepared and submitted for consideration by the Shadow Council or Shadow Executive at the same time as the majority report.
- (c) The Shadow Council or Shadow Executive shall consider reports of the Scrutiny Committee within one month of them being submitted to the proper officer, or at the next available meeting.

11. Making sure that scrutiny reports are considered by the Shadow Executive

- (a) Any reports of the Scrutiny Committee that have been referred to the Executive shall be included in the agenda of the Shadow Executive, unless they have been considered in the context of the Shadow Executive's deliberations on a substantive item on the agenda.
- (b) Where the Scrutiny Committee prepares a report for consideration by the Shadow Executive in relation to a matter where the Leader or the Council has delegated decision-making power to another individual member of the Shadow Executive, then the committee will submit a copy of their report to him/her for consideration. At the time of doing so, the Scrutiny Committee shall serve a copy on the proper officer. The member with delegated decision-making power must consider the report and respond in writing to the Scrutiny Committee within two months of receiving it. A copy of his/her written response to it shall be sent to the proper officer and the Leader. If the member with delegated decision making power does not accept the recommendations of the Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Shadow Executive for debate before exercising his/her decision-making power and responding to the report in writing to the Scrutiny Committee. The Shadow Executive member to whom the decision-making power has been delegated will respond to the Scrutiny Committee within two months of receiving it. A copy of his/her written response to it shall be sent to the proper officer. The member will also attend a future meeting of the Scrutiny Committee to present their response.

- (c) The Scrutiny Committee will have access to the Shadow Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Scrutiny Committee, following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Shadow Executive's consultation process in relation to any key decision.

12. Rights of Scrutiny Committee members to documents

- (a) In addition to their rights as councillors, members of the Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Scrutiny Committee as appropriate, depending on the particular matter under consideration.

13. Members and officers giving account

The Scrutiny Committee may invite any member of the Shadow Executive to attend before it to explain in relation to matters within his or her remit.

Any request by the committee that officers attend at its meetings, produce written reports or undertake additional research must be made in writing to the Interim Head of Staff.

In pursuance of the committee's primary function of supporting and facilitating the process of transition to Central Bedfordshire Council, and in view of the specific circumstances pertaining during the period leading up to 1 April 2009, such requests will only be responded to if the Interim Head of Staff agrees that the attendance or work requested would support and facilitate the work of the shadow authority and would not adversely affect the achievement of its statutory functions in preparing for the implementation of Central Bedfordshire Council on 1 April 2009 as provided in the Implementation Order.

14. Attendance by others

The Scrutiny Committee may invite people other than Shadow Executive members and officers to address it, to discuss issues relating to the committee's functions under Article 6, and/or to answer questions.

15. Call-in

Call-in shall only be used in exceptional circumstances where there is clear evidence, which shall be explained in the call-in notice, that a decision has not been taken in accordance with the principles of decision-making set out in Article 13 of this Constitution.

- (a) When a decision is made by the Shadow Executive, an individual member of the Shadow Executive or a committee of the Shadow Executive, or a key decision is made by an officer with delegated authority from the Shadow Executive, or under joint arrangements, the decision shall be published, and shall be available at the relevant council offices normally within five working days of being made. The decision will be circulated to all members.
- (b) The date of publication of the decision will be taken as the date on which the record of the meeting is despatched to members by courier or e-mail. If this record is despatched by first class post, the date of publication will be deemed to be the following day.
- (c) If three members of the Scrutiny Committee, who must include members of at least two different party groups, wish to call-in a decision of the Shadow Executive, with a view to requesting that the Shadow Executive reconsiders the decision, they must submit a written notice to the Interim Monitoring Officer within five working days of the date of publication of the decision, provided the issue in question has not been recorded as urgent by the Shadow Executive.
- (d) Any Shadow Executive decision recorded as urgent is exempt from the formal call-in procedure, in that the Scrutiny Committee can retrospectively review the action taken but may not delay its implementation.
- (e) The call-in notice must be in writing and must be signed by the three members. Alternatively, three separate e-mails from the members will be accepted.
- (f) It must set out the resolution of the Shadow Executive that the Members wish the Scrutiny Committee to consider and the evidence explaining why, in the view of those members, the decision has not been taken in accordance with the principles of decision-making set out in Article 13 of this Constitution.

- (g) Decisions can only be called-in once and must be considered at the next meeting of the Scrutiny Committee, unless the agenda has been published. If the agenda has been published, the report will be considered at the subsequent Scrutiny Committee, unless the matter is considered urgent by the Chairman of the Scrutiny Committee who, in reaching this view, will take into account any views of the Leader of the Council.
- (h) If having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns. Where the Shadow Executive has recorded a decision as urgent under Rule 15(c) above, the Scrutiny Committee may review the action taken but may not delay its implementation.
- (i) A decision can only be reconsidered once. If a decision relates to an executive function only the Shadow Executive can ultimately decide the matter.

16. The party whip

When considering any matter in respect of which a member of the Scrutiny Committee is subject to a party whip, the member must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

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OFFICER EMPLOYMENT PROCEDURE RULES

1. RECRUITMENT AND APPOINTMENT

(a) Declarations

- (i) The Shadow Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Shadow Council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Canvassing support for appointment

- (i) Subject to paragraph (iii), the Shadow Council will disqualify any applicant who directly or indirectly canvasses the support of any councillor for any appointment with the Shadow Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no councillor will canvass support for any person for any appointment with the Shadow Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment except where the councillor is a member of the appointment panel in that case.

2. RECRUITMENT OF INTERIM HEAD OF STAFF AND CHIEF OFFICERS

Where the Shadow Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Shadow Council will:

(a) Draw up a statement specifying:

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed.

- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) Make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3. APPOINTMENT OR DISMISSAL OF INTERIM HEAD OF STAFF AND CHIEF OFFICERS

- (a) The full Shadow Council will approve the appointment or dismissal of the Interim Head of Staff/Head of Staff following the recommendation of such an appointment or dismissal by a committee of the Shadow Council. The committee must include at least one member of the Shadow Executive.
- (b) A committee of the Shadow Council will appoint chief officers as designated in Article 12. That committee must include at least one member of the Shadow Executive. The responsibility for dismissal rests with the Interim Head of the Staff/Head of Staff or his or her nominee.
- (c) Before the committee makes an offer of an appointment, the Interim Monitoring Officer shall notify every member of the Executive of:-
 - (i) the name of the proposed appointee, and
 - (ii) the particulars relevant to the appointment, and
 - (iii) the period namely 5 working days, within which objections to the appointment can be made.
- (d) The committee may make an offer provided that:
 - (i) the Leader on behalf of the Shadow Executive within the period raises no objection, or indicates that the Shadow Executive has no objection, or
 - (ii) the committee decides that any objection received from the Leader within the period is not material or is not well founded.
- (e) Before the committee (in the case of the Interim Head of Staff/Head of Staff) or the Interim Head of Staff/Head of Staff or his or her nominee (in the case of chief officers) determines to issue a notice of dismissal, the Interim Monitoring Officer shall notify every member of the Shadow Executive of:

- (i) the name of the person proposed to be dismissed;
 - (ii) any other particulars relevant to the proposed dismissal; and
 - (iii) the period, namely 5 working days, within which objections to the dismissal can be made.
- (f) A committee of the Shadow Council or the Interim Head of Staff/ Head of Staff or his or her nominee may determine to issue a notice of dismissal, provided that:
- (i) the Leader on behalf of the Shadow Executive within the period indicates that the Shadow Executive has no objections, or raises no objection, or
 - (ii) the committee or the Interim Head of Staff/Head of Staff or his or her nominee as appropriate decides that any objection received from the Leader within the period is not material or is not well founded.

4. APPOINTMENT OR DISMISSAL OF DEPUTY CHIEF OFFICERS

- (a) A committee of the Shadow Council will appoint deputy chief officers as defined in Rule 7 (b). The responsibility for the dismissal of deputy chief officers rests with the Interim Head of Staff/Head of Staff or his or her nominee.
- (b) Before an offer of an appointment is made or before notice of dismissal is given, the Interim Monitoring Officer shall notify every member of the Shadow Executive of:-
- (i) the name of the proposed appointee or the name of the person it is proposed to dismiss;
 - (ii) any other particulars relevant to the proposed appointment or dismissal; and
 - (iii) the period, namely within 5 working days, within which objections to the proposed appointment or dismissal can be made.
- (c) The committee may decide to make an offer of appointment or the Interim Head of Staff/Head of Staff or his or her nominee may issue a notice of dismissal provided that:-
- (i) the Leader on behalf of the Shadow Executive within the period raises no objection, or indicates that the Shadow Executive has no objections, or

- (ii) the committee in the case of an offer of appointment or the Interim Head of Staff/Head of Staff or his or her nominee in the case of a notice of dismissal decides that any objection received from the Leader within the period is not material or is not well founded.

5. OTHER APPOINTMENTS

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the Interim Head of Staff/Head of Staff or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. DISCIPLINARY ACTION

- (a) **Suspension.** The Interim Head of Staff/Head of Staff, Interim Monitoring Officer and Interim Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) Councillors will not be involved in any disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

7. DEFINITION OF CHIEF OFFICER AND DEPUTY CHIEF OFFICER

- (a) The term "Chief Officer" in these Rules refers to posts designated by Article 12 of the Constitution and/or as provided in Section 2 (6) and (7) of the Local Government and Housing Act 1989.
- (b) The term "Deputy Chief Officer" means a person who as respects all or most of the duties of his or her post is required to report directly or is directly accountable to one or more of the Chief Officers but not one whose duties are solely secretarial or clerical or otherwise in the nature of support services.

FINANCIAL PROCEDURE RULES

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1. FINANCIAL PROCEDURE RULES

1.1 Introduction

1.1.1 These Financial Procedure Rules provide the framework for managing the Shadow Authority's financial affairs. They apply to every Member and officer of the Shadow Authority and anyone acting on its behalf.

1.1.2 These regulations set out the financial responsibilities of the:

Shadow Authority
Shadow Executive
Interim Head of Staff
Interim Chief Finance Officer
Interim Monitoring Officer
Central Implementation Team

1.1.3 The individual officers named above are also included in any collective reference within this document to the 'Central Implementation Team'. Responsibilities set out for the Central Implementation Team are both collective and individual.

In addition, references to the Central Implementation Team relate only to Officers of that team.

Also within these rules, all references to 'Head of Service' apply equally, where appropriate, to the Interim Head of Staff, Interim Monitoring Officer, and Interim Chief Finance Officer.

For the purposes of this document, the definition 'Head of Service' applies equally to lead officers of the Officer Service Groups during the shadow period of 2008/9.

1.1.4 The Shadow Executive, Shadow Members and Central Implementation Team must maintain a written record where decision making has been delegated.

1.1.5 All Shadow 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 properly authorised, provides value for money and achieves best value.

- 1.1.6 The Interim Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedure Rules. The Interim Chief Finance Officer is also responsible for reporting breaches of the financial procedure rules to the Shadow Authority and to the Shadow Executive. Any clarification required in respect of these Financial Procedure Rules should be sought from the Interim Chief Finance Officer.

1.2 Relationship with other documents

- 1.2.1 These regulations should be read in conjunction with the Shadow Authority's Rules of Procedure in Part 4 of the Constitution.
- 1.2.2 These Financial Procedure Rules set out broad control principles whilst the Detailed Procedures set out in more detail how the requirements imposed by the Financial Procedure Rules can be met in practical operational terms.
- 1.2.3 The Interim Chief Finance Officer shall approve the Detailed Procedure Rules.
- 1.2.4 The Central Implementation Team are responsible for ensuring that their staff receive sufficient training to enable them to be aware of and comply with, the requirements of the Shadow Authority's Financial Procedure Rules.
- 1.2.5 The Interim Chief Finance Officer is responsible for issuing advice and guidance on any matters related to the Financial Procedure Rules.
- 1.2.6 Nothing in these Financial Procedure Rules shall prevent expenditure being incurred which is essential to meet any immediate needs created by a sudden emergency or which is referable to Section 138 of the Local Government Act 1972, subject to their action being reported forthwith to the Shadow Executive.

2. Financial Management

2.1 Introduction

- 2.1.1 Financial Management covers all financial accountabilities in relation to the running of the Shadow Authority, including any policy framework and budget.

- 2.1.2 The responsibilities of the Shadow Authority, the Shadow Executive and any other Committees of the Shadow Authority are laid out elsewhere within the Constitution, as are the roles of the statutory officers of the Shadow Authority.

FINANCIAL MANAGEMENT - DETAILED PROCEDURE RULES

2.2 Financial Management Standards

- 2.2.1 All staff and Shadow Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls are in place to ensure that these standards are met.

Key Controls

- 2.2.2 The key controls and control objectives for financial management standards are:
- (a) their promotion throughout the Shadow Authority
 - (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Shadow Executive and Shadow Authority.

Responsibilities of the Interim Chief Finance Officer

- 2.2.3 To ensure the proper administration of the financial affairs of the Shadow Authority.
- 2.2.4 To set the financial management standards and to monitor compliance with them.
- 2.2.5 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Shadow Authority.
- 2.2.6 To advise on the key strategic controls necessary to secure sound financial management.
- 2.2.7 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators where appropriate.

Responsibilities of Central Implementation Team

- 2.2.8 To promote the financial management standards set by the Interim Chief Finance Officer in their divisions and to monitor adherence to the standards and practices, liaising as necessary with the Interim Chief Finance Officer.
- 2.2.9 To promote sound financial practices in relation to the standards, performance and development of staff in their divisions.

MANAGING EXPENDITURE

2.3 Accounting Policies

- 2.3.1 The Interim Chief Finance Officer is responsible for the preparation of the Shadow Authority's statement of accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC), for each financial year ending 31 March.

Key Controls

- 2.3.2 The key controls for accounting policies are:
 - (a) systems of internal control are in place that ensure that financial transactions are lawful
 - (b) suitable accounting policies are selected and applied consistently
 - (c) proper accounting records are maintained
 - (d) financial statements are prepared which present fairly the financial position of the Shadow Authority and its expenditure and income.

Responsibilities of the Interim Chief Finance Officer

- 2.3.3 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies applying to be set out in the statement of accounts, which, if necessary, will be prepared at 31 March 2009.

Responsibilities of Central Implementation Team

- 2.3.4 To adhere to the accounting policies and guidelines approved by the Interim Chief Finance Officer.

2.4 Accounting Records and Returns

- 2.4.1 Maintaining proper accounting records is one of the ways in which the Shadow Authority discharges its responsibility for stewardship of public resources. If the Shadow Authority incurs any statutory responsibility to prepare annual accounts it will be required to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that any accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Shadow Authority's resources.

Key Controls

- 2.4.2 The key controls for accounting records and returns are:
- (a) all Shadow Executive, finance staff and budget managers operate within any necessary accounting standards and timetables
 - (b) all the Shadow Authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
 - (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
 - (d) reconciliation procedures are carried out to ensure transactions are correctly recorded
 - (e) prime documents are retained in accordance with legislative and other requirements.

Responsibilities of the Interim Chief Finance Officer

- 2.4.3 To determine the accounting procedures and records for the Shadow Authority. Where these are maintained outside the finance division, the Interim Chief Finance Officer should consult the Head of Service concerned.

- 2.4.4 To arrange for the compilation of all accounts and accounting records under his or her direction.
- 2.4.5 To comply with the following principles when allocating accounting duties:
 - (a) separating the duties of providing information about sums due to or from the Shadow Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
 - (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 2.4.6 To make proper arrangements for the audit of the Shadow Authority's accounts if required in accordance with the most recent Accounts and Audit Regulations.
- 2.4.7 To ensure that all claims that may arise for funds including grants are made by the due date.
- 2.4.8 To prepare and publish any required audited accounts of the Shadow Authority for 2008/9, in accordance with the agreed timetable and with the requirement for the Shadow Authority to approve the statement of accounts, if required, by the due statutory date.
- 2.4.9 To administer the Shadow Authority's arrangements for under- and overspendings to be carried forward to the new Central Bedfordshire Council if appropriate.
- 2.4.10 To ensure the proper retention of financial documents in accordance with the requirements set out in the document retention schedule.

Responsibilities of Central Implementation Team

- 2.4.11 To consult and obtain the approval of the Interim Chief Finance Officer before making any changes to accounting records and procedures.
- 2.4.12 To comply with the principles outlined in paragraph 2.4.5 when allocating accounting duties.
- 2.4.13 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

- 2.4.14 To supply information required enabling the statement of accounts to be completed in accordance with guidelines issued by the Interim Chief Finance Officer.

2.5 Statement of Accounts

- 2.5.1 Where the Shadow Authority has a statutory responsibility to prepare its own accounts, it will present fairly its operations during the year. The Shadow Authority is responsible for approving any required statement of accounts.

Key Controls

- 2.5.2 The key controls for the statement of accounts are:
- the Shadow Authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this Shadow Authority, that officer is the Interim Chief Finance Officer.
 - the Shadow Authority's statement of accounts must be prepared, if required, in accordance with proper practices as set out in the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the SORP) (CIPFA/LASAAC).

Responsibilities of the Interim Chief Finance Officer

- 2.5.3 To select suitable accounting policies and to apply them consistently.
- 2.5.4 To make judgements and estimates that are reasonable and prudent.
- 2.5.5 To comply with the Statement of Recommended Practice.
- 2.5.6 To sign and date the statement of accounts, stating that it presents fairly the financial position of the Shadow Authority at the accounting date and its income and expenditure for the financial year ended 31 March 2009.
- 2.5.7 To draw up a timetable for accounts preparation and to advise staff and external auditors accordingly.

- 2.5.8 To report as appropriate the outturn figures for the financial year and draw attention to any major departures from budget and/or matters of importance as soon as practicable after the end of that year.

Responsibilities of Central Implementation Team

- 2.5.9 To comply with accounting guidance provided by the Interim Chief Finance Officer and to supply the Interim Chief Finance Officer with information when required.

3. Financial Planning

3.1 Introduction

- 3.1.1 The Shadow Authority is responsible for preparing the Shadow Authority's policy and budget framework required by the Central Bedfordshire Council, which will be proposed by the Shadow Executive if required. In terms of financial planning, the key elements are:

- the revenue budget
- the capital programme.
- the corporate plan

- 3.1.2 Where responsibility is given to a Head of Service to report to the Shadow Executive, this will be carried out following full consultation with the Central Implementation Team and the Interim Chief Finance Officer

Policy Framework

- 3.1.3 The Shadow Authority is responsible for preparing the budget and policy framework pertaining to Central Bedfordshire in 2009/10.
- 3.1.4 The Shadow Authority is also responsible for approving initial procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.
- 3.1.5 The Shadow Authority is responsible for setting the level at which it will be permissible to reallocate budget funds from one service to another. The Shadow Executive is responsible for taking in-year decisions on resources and priorities in order to deliver the budget and policy framework within the financial limits required.

3.2 Budgeting

Budget Format

- 3.2.1 The general format of the 2009/10 budget for Central Bedfordshire will be proposed by the Shadow Executive and approved by the Shadow Authority on the advice of the Interim Chief Finance Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

Budget Preparation

- 3.2.2 The Interim Chief Finance Officer, in consultation with the Central Implementation Team, is responsible for ensuring that a revenue budget is prepared for Central Bedfordshire and a 3-year medium term revenue plan for consideration by the Shadow Executive, before submission to the Shadow Authority. The Shadow Authority may amend the budget or ask the Shadow Executive to reconsider it before approving it.
- 3.2.3 The Shadow Executive is responsible for issuing guidance on the general content of the budget in consultation with the Interim Chief Finance Officer as soon as possible following approval by the Shadow Authority.
- 3.2.4 It is the responsibility of Central Implementation Team, to ensure that budget estimates reflecting agreed service plans are submitted to the Shadow Executive and that these estimates are prepared in line with guidance issued by the Shadow Executive or the Interim Chief Finance Officer.

Budget Monitoring and Control

- 3.2.5 The Interim Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Shadow Executive on the overall position on a regular basis.

- 3.2.6 It is the responsibility of all Heads of Service to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Interim Chief Finance Officer. They should report on variances within their own areas to the appropriate Committee or body and Member(s). They should also take any action necessary within the financial procedure rules to avoid exceeding their budget allocation and alert the Interim Chief Finance Officer to any problems, and report to the Central Implementation Team as soon as possible thereafter.

Guidelines

- 3.2.7 Guidelines on budget preparation are issued to Shadow Members and Central Implementation Team by the Shadow Executive following agreement with the Interim Chief Finance Officer. The guidelines will take account of:
- legal requirements
 - medium-term planning prospects
 - available resources
 - spending pressures
 - any best value or other relevant government guidelines
 - other internal policy documents
 - cross-cutting issues (where relevant)

Maintenance of Reserves

- 3.2.8 It is the responsibility of the Interim Chief Finance Officer to advise the Shadow Executive and/or the Shadow Authority on prudent levels of revenue reserves for Central Bedfordshire.

Preparation of the Capital Programme

- 3.2.9 The Interim Chief Finance Officer is responsible for ensuring that a Capital Programme for Central Bedfordshire is prepared for consideration by the Shadow Executive before submission to the Shadow Authority .

FINANCIAL PLANNING - DETAILED PROCEDURE NOTES

BUDGETING FOR CENTRAL BEDFORDSHIRE

3.3 Format of the Budget

- 3.3.1 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes the operation of budgets and sets the level at which funds may be reallocated within budgets.

Key Controls

- 3.3.2 The key controls for the budget format are:
- (a) the format complies with all legal requirements
 - (b) the format complies with CIPFA's Best Value Accounting – Code of Practice
 - (c) the format reflects the accountabilities of service delivery.

Responsibilities of the Interim Chief Finance Officer

- 3.3.3 To determine the detailed format of the budget

Responsibilities of Central Implementation Team

- 3.3.4 To comply with accounting guidance provided by the Interim Chief Finance Officer

3.4 Revenue Budget Preparation, Monitoring and Control

- 3.4.1 Budget management ensures that once the budget for Central Bedfordshire has been approved by the Shadow Authority, resources allocated will be used for their intended purpose and properly accounted for. Budgetary control is a continuous process, enabling Central Bedfordshire to review and adjust its budget targets during the financial year 2009/10. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- 3.4.2 By continuously identifying and explaining variances against budgetary targets, Central Bedfordshire can identify changes in trends and resource requirements at the earliest opportunity. To ensure that Central Bedfordshire in total does not overspend, each service will be required to manage its own expenditure within the agreed budget.

- 3.4.3 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre.

Key Controls

- 3.4.4 The key controls for managing and controlling the revenue budget are:
- (a) budget managers should be responsible for income and expenditure within their service area.
 - (b) there is a nominated budget manager for each cost centre heading
 - (c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
 - (d) budget managers follow an approved certification process for all expenditure
 - (e) income and expenditure are properly recorded and accounted for
 - (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

Responsibilities of the Interim Chief Finance Officer

- 3.4.5 To establish an appropriate framework of budgetary management and control that ensures that:
- (a) budget management is exercised within approved estimates
 - (b) each Head of Service has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
 - (c) expenditure is committed only against an approved budget head
 - (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations

- (e) each cost centre has a single named manager, determined by the relevant Head of Service. (As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure)
 - (f) significant variances from approved budgets are investigated and reported by budget managers regularly.
- 3.4.6 To submit reports to the Shadow Executive or to the Shadow Authority, in consultation with the Central Implementation Team, where it is apparent that the overall budgets are likely to be overspent by financial year-end such that it may compromise the overall general fund balances position required during the period of transition.
- 3.4.7 To prepare and submit exception reports on projected income and expenditure compared with the budget on a regular basis.

Responsibilities of Central Implementation Team

- 3.4.8 To maintain budgetary control within their divisions, in adherence to the principles in 3.4.4, and to ensure that all income and expenditure is properly recorded and accounted for.
- 3.4.9 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Head of Service (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- 3.4.10 To ensure that only spending covered by a budget provision is incurred. It shall be the duty of each Head of Service, in consultation with the Central Implementation Team, to report to the Shadow Executive any significant overspending or shortfall of income against any approved budget head.
- 3.4.11 The Central Implementation Team must ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.

- 3.4.12 The Head of Service must prepare and submit to the Central Implementation Team, reports on their Divisions projected expenditure at cost centre level compared with budget, in consultation with the Interim Chief Finance Officer, where requested.
- 3.4.13 The Head of Service must ensure prior approval by the Shadow Executive for new proposals, of whatever amount, that:
- (a) create financial commitments in future years
 - (b) change existing policies, initiate new policies or cease existing policies, materially extend or reduce the Shadow Authority's services.
 - (c) subject to statutory limits imposed in the period up to the vesting date for Central Bedfordshire
- 3.4.14 A report on new proposals should explain the full financial implications, following consultation with the Interim Chief Finance Officer.
- 3.4.15 The Central Implementation Team to agree with the relevant Head of Service where it appears that a budget proposal, may impact materially on another service during 2009/10.

3.5 Budgets and Medium Term Planning

- 3.5.1 The Shadow Authority will need to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Shadow Authority's interim plans to be passed on to Central Bedfordshire.
- 3.5.2 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities as identified by the Shadow Authority. Budgets (spending plans) are needed so that the Shadow Authority can plan, authorise, monitor and control the way money is allocated and spent on behalf of Central Bedfordshire. It is illegal for the Shadow Authority to budget for a deficit, unless met by an allocation from reserves.

- 3.5.3 Medium-term planning involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Shadow Authority will financially prepare for events in advance as far as possible.

Key Controls

- 3.5.4 The key controls for budgets and medium-term planning are:
- (a) specific budget approval for all expenditure
 - (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Shadow Executive for their budgets and the level of service to be delivered
 - (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

Responsibilities of the Interim Chief Finance Officer

- 3.5.5 To prepare and submit a report on the proposed annual budget for the Shadow Executive, including resource constraints set by the Government. The report should take account of medium-term prospects, where appropriate.
- 3.5.6 To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the Shadow Authority, and after consultation with any relevant Member and Central Implementation Team.
- 3.5.7 To prepare and submit reports to the Shadow Executive on the aggregate spending plans of divisions and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied.
- 3.5.8 To advise on the medium-term implications of spending decisions.

- 3.5.9 To encourage the best use of resources and value for money by working with Heads of Service to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 3.5.10 To advise the Shadow Authority on Shadow Executive proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

Responsibilities of Central Implementation Team

- 3.5.11 To prepare estimates of income and expenditure, in consultation with the Interim Chief Finance Officer, to be submitted to the Shadow Executive.
- 3.5.12 To prepare budgets that are consistent with guidelines issued by the Shadow Executive. The format should be prescribed by the Interim Chief Finance Officer in accordance with the Shadow Authority's general directions.
- 3.5.13 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 3.5.14 In consultation with the Interim Chief Finance Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the appropriate Committee/body.
- 3.5.15 When drawing up draft budget requirements, to have regard to:
- (a) spending patterns and pressures revealed through the budget monitoring process
 - (b) legal requirements
 - (c) any policy requirements as may be determined by the Shadow Authority
 - (d) initiatives already under way

3.6 Resource Allocation

- 3.6.1 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully identified and prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

Key Controls

- 3.6.2 The key controls for resource allocation are:
- (a) resources are acquired in accordance with the law and using an approved authorisation process
 - (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
 - (c) resources are securely held for use when required
 - (d) resources are used with the minimum level of waste, inefficiency, or loss.

Responsibilities of the Interim Chief Finance Officer

- 3.6.3 To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- 3.6.4 To assist in the allocation of resources to budget managers.

Responsibilities of Central Implementation Team

- 3.6.5 To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- 3.6.6 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

3.7 Capital Programme

- 3.7.1 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value, 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.
- 3.7.2 The Government places strict controls on the financing capacity of all local authorities. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

Key Controls

- 3.7.3 The key controls for the capital programme will be monitored by the Interim Chief Finance Officer and are as follows:
- (a) Shadow Authority must approve the proposed programme of capital expenditure for Central Bedfordshire from 2009/10 and up to 5 years beyond
 - (b) the principles outlined in any project management guidance which may be approved by the Central Implementation Team should be incorporated into any scheme consideration
 - (c) a scheme and estimate, including project plan, progress targets and associated revenue expenditure is, or has previously been prepared for each capital project and noted in a Project Initiation Documents (PID) or similar, for recommendation to the Shadow Authority by the Shadow Executive
 - (d) approval by the Shadow Executive where capital schemes are to be financed from the revenue budget, up to the amount shown in the Capital Programme

- (e) detailed bids for individual schemes within the overall budget approved by the Shadow Authority must be submitted to the Shadow Executive for approval (for example, minor works), or under other arrangements approved by the Shadow Authority subject to any statutory limits imposed by Government
- (f) the development and implementation of asset management plans
- (g) accountability for each proposal is accepted by a named manager
- (h) monitoring of progress in conjunction with expenditure and comparison with approved budget.

Responsibilities of the Interim Chief Finance Officer

- 3.7.4 To prepare capital estimates jointly with the Central Implementation Team and to report them to the Shadow Executive for approval. The Shadow Executive will make recommendations on the capital estimates and on any associated financing requirements to the Shadow Authority.
- 3.7.5 To prepare and submit reports to the Shadow Executive on the projected income, expenditure and resources compared with the approved estimates.
- 3.7.6 To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Interim Chief Finance Officer, having regard to government regulations and accounting requirements.
- 3.7.7 To ensure compliance with the Prudential Code and to report to the Shadow Authority on the initial Prudential Indicators for Central Bedfordshire.

Responsibilities of Central Implementation Team

- 3.7.8 To comply with guidance concerning capital schemes and controls issued by the Interim Chief Finance Officer.
- 3.7.9 To ensure that all new capital proposals are supported by a previously completed Project Initiation Document or similar.

- 3.7.10 To prepare any report as appropriate reviewing the capital programme provisions for the services. To ensure that adequate records are maintained for all capital contracts.
- 3.7.11 To proceed or continue with projects only when there is adequate provision in the capital programme.
- 3.7.12 To authorise additional capital expenditure on the replacement of capital assets, where it is to be financed from an associated insurance claim. Any such items should then be reported to the Shadow Executive for information and formal amendment to the capital programme.
- 3.7.13 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Interim Chief Finance Officer and, if applicable, approval of the scheme through the capital programme.

3.8 Maintenance of Reserves

- 3.8.1 The Shadow Authority must decide the level of general reserves it wishes to maintain before it can decide the level of Council Tax on behalf of Central Bedfordshire. Reserves are maintained as a matter of prudence. They enable the Authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained.

Key Controls

- 3.8.2 To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC) and agreed accounting policies.
- 3.8.3 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 3.8.4 Authorisation and expenditure from reserves, by the appropriate Head of Service, in consultation with the Interim Chief Finance Officer.

Responsibilities of the Interim Chief Finance Officer

- 3.8.5 To advise the Shadow Executive and/or the Shadow Authority on prudent levels of reserves for Central Bedfordshire.

Responsibilities of Central Implementation Team

- 3.8.6 To ensure that resources are used only for the purposes for which they are intended.

4. RISK MANAGEMENT AND CONTROL OF RESOURCES

4.1 Introduction

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

Risk Management

- 4.1.2 The Central Implementation Team is responsible for approving any relevant Risk Management arrangements and for reviewing the effectiveness of risk management.
- 4.1.3 The Central Implementation Team is responsible for preparing the Shadow Authority's Risk Management arrangements, for promoting those arrangements throughout the Shadow Authority and for ensuring the Shadow Executive receives proper advice on insurance cover where appropriate.

Internal Control

- 4.1.4 Internal control refers to the systems of control devised by management to help ensure the Shadow Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Shadow Authority's assets and interests are safeguarded.

- 4.1.5 The Interim Chief Finance 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. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 4.1.6 It is the responsibility of the Central Implementation Team to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving the initial financial performance targets.

Audit Requirements

- 4.1.7 The Accounts and Audit Regulations require every local authority to maintain an adequate and effective internal audit.
- 4.1.8 The Audit Commission is responsible for appointing external auditors to each local authority. 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.
- 4.1.9 The Shadow Authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

Preventing Fraud and Corruption

- 4.1.10 The Interim Chief Finance Officer is responsible for the maintenance of an anti-fraud and anti-corruption policy.

Assets

- 4.1.11 Heads of Service should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

Treasury Management

- 4.1.12 The Shadow Authority will utilise where appropriate CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.1.14 All money in the hands of the Shadow Authority is controlled by the Interim Chief Finance Officer.
- 4.1.15 The Interim Chief Finance Officer is responsible for reporting to the Shadow Executive a proposed Treasury Management Strategy for Central Bedfordshire from 2009/10.
- 4.1.16 Should they arise, all Shadow Executive decisions on borrowing, investment or financing shall be delegated to the Interim Chief Finance Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.1.17 The Interim Chief Finance Officer is responsible for reporting to the Shadow Executive where required, on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers.

Staffing

- 4.1.18 The Interim Head of Staff is responsible for determining how officer support is organised.
- 4.1.19 The Interim Head of Staff is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of any job under consideration in the shadow year.
- 4.1.20 The Interim Head of Staff is responsible for controlling total staff numbers by:
- advising the Shadow Executive on the budget necessary to cover estimated staffing levels for 2009/10 onwards
 - adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs

- the proper use of appointment procedures

Risk Management And Control Of Resources – Detailed Procedure Rules

4.2 Risk Management

- 4.2.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- 4.2.2 It is the overall responsibility of the Central Implementation Team to approve the Shadow Authority's risk management strategy and to promote a culture of risk management awareness.

Key Controls

- 4.2.3 The key controls for risk management are:
- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Shadow Authority
 - (b) a monitoring process is in place to review at least annually the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
 - (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives

- (d) provision is made for losses that might result from the risks that remain
- (e) procedures are in place to investigate claims within required timescales
- (f) acceptable levels of risk are determined and insured against where appropriate
- (g) the Shadow Authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

Responsibilities of the Central Implementation Team

- 4.2.4 To prepare and promote the Shadow Authority's risk management arrangements.
- 4.2.5 To develop risk management controls in conjunction with Heads of Service.

Responsibilities of the Interim Chief Finance Officer

- 4.2.6 To include all appropriate employees of the Shadow Authority in a suitable fidelity guarantee insurance.
- 4.2.7 To consider as necessary all insurances in consultation with other Heads of Service as appropriate.
- 4.2.8 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

Responsibilities of Heads of Service

- 4.2.9 To notify the Interim Chief Finance Officer immediately of any loss, liability or damage that may lead to a claim against the Shadow Authority, together with any information or explanation required by the Interim Chief Finance Officer or the Shadow Authority's insurers.
- 4.2.10 To take responsibility for risk management, ensuring that insurance covers are adequate and that good risk management practices are followed in their divisions, having regard to advice from the Interim Chief Finance Officer and other specialist officers (e.g. crime prevention, fire prevention, health and safety).

- 4.2.11 To ensure that there are regular reviews of risk within their divisions.
- 4.2.12 To notify the Interim Chief Finance Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 4.2.13 To consult the Interim Chief Finance Officer on the terms of any indemnity that the Shadow Authority is requested to give.
- 4.2.14 To ensure that employees, or anyone covered by the Shadow Authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

4.3 INTERNAL CONTROLS

- 4.3.1 The Shadow Authority requires internal controls to manage and monitor progress towards strategic objectives.
- 4.3.2 The Shadow Authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 4.3.3 The Shadow Authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 4.3.4 The system of internal controls is established in order to provide measurable achievement of:
 - (a) efficient and effective operations
 - (b) reliable financial information and reporting
 - (c) compliance with laws and regulations
 - (d) risk management.

Key Controls

- 4.3.5 The key controls and control objectives for internal control systems are:
 - (a) key controls should be reviewed as necessary to ensure that the systems of internal control are operating effectively

- (b) managerial control systems, including defining policies, setting objectives and plans as may be appropriate, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- (d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline Guidance for Internal Auditors, CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

Responsibilities of the Interim Chief Finance Officer

- 4.3.6 To assist the Shadow Authority to put in place an appropriate control environment and effective internal controls that provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

Responsibilities of Central Implementation Team

- 4.3.7 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 4.3.8 To review existing controls in the light of changes affecting the Shadow Authority and to establish and implement new ones in line with guidance from the Interim Chief Finance Officer. Heads of Service should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- 4.3.9 To ensure staff have a clear understanding of the consequences of lack of control.

- 4.3.10 Heads of Service may be required to issue an assurance statement to the Interim Head of Staff upon the risks and internal controls operating to minimise such risk, in their service area.

Audit Requirements

4.4 Internal Audit

- 4.4.1 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 (SI 1996/590), regulation 5, more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”.
- 4.4.2 Accordingly, internal audit is an independent and objective appraisal function established for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

Key Controls

- 4.4.3 The key controls for Internal Audit are:
- (a) that it is under the independent control and direction of the Interim Chief Finance Officer
 - (b) the Interim Chief Finance Officer has direct access to the Interim Head of Staff, all levels of management and directly to Shadow Members
 - (c) the internal auditors comply with the Auditing Practices Board’s guideline Guidance for Internal Auditors, as interpreted by CIPFA’s Code of Practice for Internal Audit in Local Government in the United Kingdom
 - (d) Compliance with any agreed Member reporting mechanism.

Responsibilities of the Interim Chief Finance Officer

- 4.4.4 To ensure that internal auditors have the authority to, without notice:

- (a) access Shadow Authority premises at reasonable times
 - (b) access all assets, records, documents, correspondence and control systems
 - (c) receive any information and explanation considered necessary concerning any matter under consideration
 - (d) require any employee of the Shadow Authority to account for cash, stores or any other Shadow Authority asset under his or her control
 - (e) access records belonging to third parties, such as contractors
 - (f) directly access the Interim Head of Staff and the Shadow Executive.
- 4.4.5 To approve the strategic and annual audit plans to take account of the characteristics and relative risks of the activities involved.
- 4.4.6 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

Responsibilities of Central Implementation Team

- 4.4.7 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 4.4.8 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 4.4.9 To consider and respond promptly to recommendations in audit reports.
- 4.4.10 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

- 4.4.11 To notify the Interim Chief Finance Officer, Interim Monitoring Officer and Interim Head of Staff immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Shadow Authority's property or resources. Pending investigation and reporting, the Head of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration. The Interim Head of Staff and Interim Chief Finance Officer shall take whatever steps they consider necessary by way of investigation and reporting any matter.
- 4.4.12 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Interim Chief Finance Officer prior to implementation.

4.5 External Audit

- 4.5.1 The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local Shadow Authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.
- 4.5.2 The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice sets out the auditor's objectives to review and report a number of objectives, of which only some will apply to the Shadow Authority i.e.:
- (a) any financial aspects of the audited body's corporate governance arrangements
 - (b) any of the audited body's financial statements
 - (c) aspects of the audited body's arrangements to manage its performance where appropriate.

- 4.5.3 The Shadow Authority's accounting transactions may be scrutinised by external auditors, who must be satisfied that any accounts required to be produced 'presents fairly' the financial position of the Shadow Authority and its income and expenditure for the year in question and complies with the legal requirements.

Key Controls

- 4.5.4 External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits. It may be anticipated the external auditor will examine the financial affairs of the Shadow Authority

Responsibilities of the Interim Chief Finance Officer

- 4.5.5 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- 4.5.6 To ensure there is effective liaison between external and internal audit.
- 4.5.7 To work with the external auditor and advise the Shadow Authority, Shadow Executive and Heads of Service and Interim Chief Finance Officer on their responsibilities in relation to external audit.

Responsibilities of Central Implementation Team

- 4.5.8 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for their purposes.
- 4.5.9 To ensure that all records and systems are up to date and available for inspection.

4.6 Preventing Fraud And Corruption

- 4.6.1 The Shadow Authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Shadow Authority.

- 4.6.2 The Shadow Authority's expectation of propriety and accountability is that Shadow Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 4.6.3 The Shadow Authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Shadow Authority with integrity and without thought or actions involving fraud and corruption.

Key Controls

- 4.6.4 The key controls regarding the prevention of financial irregularities are that:
- (a) the Shadow Authority maintains a culture that will not tolerate fraud or corruption
 - (b) all Shadow Members and staff act with integrity and lead by example
 - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Shadow Authority or who are corrupt
 - (d) high standards of conduct are promoted amongst Shadow Members by the Shadow Authority
 - (e) a whistle blowing policy is in place and operates effectively
 - (f) legislation including the Public Interest Disclosure Act 1998 is adhered to.

Responsibilities of the Interim Chief Finance Officer

- 4.6.5 To develop and maintain an anti-fraud and anti-corruption policy.
- 4.6.6 To maintain adequate and effective internal control arrangements.

- 4.6.7 To ensure that all suspected irregularities are suitably investigated and reported to the relevant Head of Service or where appropriate, the relevant Member, Interim Head of Staff, Shadow Executive or Shadow Authority.

Responsibilities of Central Implementation Team

- 4.6.8 To ensure that all suspected irregularities are reported to the Interim Chief Finance Officer and Interim Head of Staff.
- 4.6.9 To instigate disciplinary procedures where the outcome of an investigation indicates improper behaviour.
- 4.6.10 To ensure that where financial impropriety is suspected, the Interim Head of Staff, Interim Monitoring Officer and Interim Chief Finance Officer are informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.

Assets

4.7 Security

- 4.7.1 The Shadow Authority may hold assets in the form of property, vehicles, equipment, furniture and other items. It is important that any assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

Key Controls

- 4.7.2 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, IT hardware, software and information are:
- (a) resources are used only for the purposes of the Shadow Authority and are properly accounted for
 - (b) resources are available for use when required

- (c) resources no longer required are disposed of in accordance with the law and so as to maximise benefits
- (d) an asset register is maintained for the Shadow Authority if necessary, assets are recorded when they are acquired by the Shadow Authority and this record is updated as changes occur with respect to the location and condition of the asset. Any asset with a value of over £15,000 should be included in the asset register and all IT hardware and software acquisitions must be made via the IT division, who will maintain a register of all such assets.
- (e) all staff are aware of their responsibilities with regard to safeguarding the Shadow Authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation.
- (f) all staff are aware of their responsibilities with regard to safeguarding the security of the Shadow Authority's computer systems, including maintaining restricted access to the information held on them and compliance with the Shadow Authority's computer and internet security policies.
- (g) an annual valuation of fixed assets will take place in accordance with the CIPFA Accounting Code of Practice for year end statement of accounts purposes.

Responsibilities of Central Implementation Team

- 4.7.5 To ensure the proper security of all buildings and other assets under their control.
- 4.7.8 To ensure that no Shadow Authority asset is subject to personal use by an employee without proper authority.
- 4.7.9 To ensure the safe custody of any vehicles, equipment, furniture, stock, stores and other property that may belong to the Shadow Authority.
- 4.7.10 To ensure that if appropriate, assets are identified, their location recorded and that they are appropriately marked and insured.

- 4.7.11 To consult the Interim Chief Finance Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 4.7.12 To ensure cash holdings on premises are kept to a minimum and are within limits approved by the Interim Chief Finance Officer, which shall not be exceeded without his express approval.
- 4.7.13 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Interim Chief Finance Officer as soon as possible.
- 4.7.15 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Shadow Authority in some way. Under the direction of the Head of Service, to ensure all employees are aware of their responsibilities for maintaining proper security and privacy in respect of information held in any computer and also for the need to comply at all times with the provisions of the Data Protection Act, 1998 and the Computer Misuse Act 1990, and the Freedom of Information Act 2000.

4.8 Inventories

- 4.8.1 With the concurrence of the Interim Chief Finance Officer and the Interim Head of Staff to maintain such inventories and records as may be required showing an adequate description of furniture, fittings, equipment, plant and machinery. The extent and format of which should be in accordance with good practice for such records as advised by the Interim Chief Finance Officer.
- 4.8.2 Head of Service to ensure a check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Shadow Authority where appropriate.

- 4.8.3 To make sure that property is only used in the course of the Shadow Authority's business, unless the Head of Service or Interim Chief Finance Officer concerned has given permission otherwise.

4.9 Intellectual Property

- 4.9.1 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.
- 4.9.2 Certain activities undertaken within the Shadow Authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

Key Controls

- 4.9.3 In the event that the Shadow Authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with any approved intellectual property procedures determined by the Shadow Authority.

Responsibilities of the Central Implementation Team

- 4.9.4 To develop and disseminate good practice through the Shadow Authority's intellectual property procedures.
- 4.9.5 To ensure that controls are in place to ensure that staff do not carry out private work in Shadow Authority time and that staff are aware of an employer's rights with regard to intellectual property.

4.10 Purchases And Disposals

- 4.10.1 All purchases or disposals of land and/or buildings or other significant assets that prove necessary during the life of the Shadow Authority shall be the subject of a valuation report by the District Valuer or other independent qualified valuer. Due regard must also be taken of the direction under section 24 of the Local Government and Public Involvement in Health act 2007 which may require Secretary of State approval or written consent of Central Bedfordshire.

- 4.10.2 In addition, where the powers conferred by Part 5 Section 20 of the Bedfordshire (Structural Changes) Order 2008 are exercised under paragraphs 4 and 5, the obligations required under those paragraphs must be adhered to in any transaction incurring expenditure or creating a liability.

4.11 Treasury Management

- 4.11.1 Many millions of pounds pass through local authority books each year. This led to the establishment of codes of practice. These aim to provide assurances that any Shadow Authority money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of any Shadow Authority capital sums.

Key Controls

- 4.11.2 That any Shadow Authority's borrowings and investments that may arise comply with the CIPFA Code of Practice on Treasury Management.

Responsibilities of Interim Chief Finance Officer – Treasury Management and Banking

- 4.11.3 To arrange any borrowing and investments of the Shadow Authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management.
- 4.11.4 To operate bank accounts and order all cheques as are considered necessary. Opening or closing any bank account shall require his approval.
- 4.11.5 To ensure that all cheques on the Shadow Authority's main bank accounts bear his facsimile signature or be signed by him or other person authorised by the Shadow Authority to do so.
- 4.11.6 To ensure that all cheques drawn exceeding £20,000 in value are countersigned by an appropriately authorised signatory designated by him.
- 4.11.7 To ensure that all manually prepared cheques are stamped in accordance with procedures authorised by him.

Responsibilities of Central Implementation Team – Treasury Management and Banking

- 4.11.8 To follow the instructions on banking issued by the Interim Chief Finance Officer.

Responsibilities of Interim Chief Finance Officer – Investments and Borrowing

- 4.11.9 To ensure that all investments of money made in the name of the Shadow Authority or in the name of nominees are approved by the Shadow Authority.
- 4.11.10 To ensure that all securities that are the property of the Shadow Authority or its nominees and the title deeds of all property in the Shadow Authority's ownership are in the custody of the Interim Monitoring Officer.
- 4.11.11 To effect any borrowings required in the name of the Shadow Authority.
- 4.11.12 To maintain records of all borrowing of money by the Shadow Authority.
- 4.11.13 To comply with the best available professional published guidance insofar as is reasonably practicable to do so.

Responsibilities of Central Implementation Team – Investments and Borrowing

- 4.11.14 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Shadow Authority, following consultation with the Interim Chief Finance Officer and Interim Monitoring Officer

Responsibilities of Central Implementation Team – Trust Funds and Funds held for Third Parties

- 4.11.15 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Interim Chief Finance Officer, and to maintain written records of all transactions.

Responsibilities of the Interim Chief Finance Officer – Petty Cash Accounts

- 4.11.16 To provide employees of the Shadow Authority with cash or bank Petty Cash accounts where the Interim Chief Finance Officer is satisfied there is a need, to meet minor expenditure on behalf of the Shadow Authority and to prescribe rules for operating these accounts. Items of expenditure should not exceed £100 without the prior approval of the Interim Chief Finance Officer.
- 4.11.17 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 4.11.18 To reimburse Petty Cash holders as often as necessary to restore the Petty Cash total, but normally not more than monthly.

Responsibilities of Central Implementation Team – Petty Cash Accounts

- 4.11.19 To ensure that employees operating a Petty Cash account:
 - (a) obtain and retain vouchers to support each payment from the Petty Cash account. Where appropriate, an official receipted VAT invoice must be obtained
 - (b) make adequate arrangements for the safe custody of the account
 - (c) produce upon demand by the Interim Chief Finance Officer cash and all vouchers to the total value of the Petty Cash amount
 - (d) record transactions promptly
 - (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the Petty Cash holder
 - (f) provide the Interim Chief Finance Officer with a certificate of the value of the account held at 31 March 2009

- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (h) on leaving the Shadow Authority's employment or otherwise ceasing to be entitled to hold an Petty Cash advance, an employee shall account to the Interim Chief Finance Officer for the amount advanced to him or her.
- (i) ensure that the Petty Cash account is not used for items that are subject to Income Tax i.e. wages, sub contractors.

4.12 Staffing

- 4.12.1 In order to provide the highest level of service, it is crucial that where required the Shadow Authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

Key Controls

- 4.12.2 The key controls for staffing are:

- (a) ensure that staffing requirements and budget allocations and work priorities are matched
- (b) the forecasting of staffing requirements and costs
- (c) controls are in place to ensure that staff time is used efficiently and to the benefit of the Shadow Authority
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy
- (e) procedures are operating to ensure the appropriate training and development of staff

Responsibilities of the Interim Chief Finance Officer

- 4.12.3 To ensure that budget provision exists for all existing and new employees.

- 4.12.4 To act as an advisor to Heads of Service on areas such as National Insurance and pension contributions, as appropriate.

Responsibilities of Central Implementation Team

- 4.12.5 To produce an annual staffing budget for Central Bedfordshire.
- 4.12.6 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

5. FINANCIAL SYSTEMS AND PROCEDURE

5.1 Introduction

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

General

- 5.1.2 The Interim Chief Finance Officer is responsible for the operation of the Shadow Authority's accounting systems, the form of accounts and the supporting financial records. However, Heads of Service are responsible for the proper operation of financial processes in their own divisions.
- 5.1.3 Any changes to financial procedures by Heads of Service to meet their own specific service needs should not be made without the express permission of the Interim Chief Finance Officer.
- 5.1.4 Heads of Service should ensure that their staff receive relevant financial training that has been approved by the Interim Chief Finance Officer.
- 5.1.5 Heads of Service must ensure, in consultation with the Data Protection Officer, that where appropriate computer and other systems are registered in accordance with data protection legislation. Heads of Service must ensure, in consultation with the Data Protection Officer, that staff are aware of their responsibilities under Freedom of Information legislation.

Income and Expenditure

- 5.1.6 It is the responsibility of Heads of Service to ensure that proper delegation has been established within their area and is operating effectively. The delegation should document the authority and identify staff authorised to act on behalf of the Head of Service, in respect of payments, income collection and placing orders, together with the limits of their authority. The Shadow Executive is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

Payments to Employees and Shadow Members

- 5.1.7 The Interim Chief Finance Officer is responsible for all payment of salaries to staff, including payments for overtime, and for payment of allowances to Shadow Members.

Taxation

- 5.1.8 The Interim Chief Finance Officer is responsible for advising Heads of Service in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Shadow Authority.
- 5.1.9 The Interim Chief Finance Officer is responsible for maintaining the Shadow Authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

Trading Accounts/Units

- 5.1.10 It is the responsibility of the Interim Chief Finance Officer to advise on the establishment and operation of trading accounts and units.

Detailed Procedure Rules

5.2 General

- 5.2.1 Divisions have many systems and procedures relating to the control of the Shadow Authority's assets, including purchasing, costing and management systems. Divisions are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

- 5.2.2 The Interim Chief Finance Officer has a professional responsibility to ensure that the Shadow Authority's financial systems are sound and should therefore be notified of any new developments or changes.

Key Controls

- 5.2.3 The key controls for systems and procedures are:
- (a) basic data exists to enable the Shadow Authority's objectives, targets, budgets and plans to be formulated
 - (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
 - (c) early warning is provided of deviations from target, plans and budgets that require management attention
 - (d) operating systems and procedures are secure.

Responsibilities of the Interim Chief Finance Officer

- 5.2.4 To make arrangements for the proper administration of the Shadow Authority's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the Shadow Authority's behalf
 - (b) determine the accounting systems, form of accounts and supporting financial records
 - (c) establish arrangements for audit of the Shadow Authority's financial affairs
 - (d) approve any new financial systems to be introduced
 - (e) approve any changes to be made to existing financial systems.

Responsibilities of Central Implementation Team

- 5.2.5 To ensure that accounting records are properly maintained and held securely.

- 5.2.6 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Interim Chief Finance Officer.
- 5.2.7 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 5.2.8 To incorporate appropriate controls to ensure that, where relevant:
- (a) all input is genuine, complete, accurate, timely and not previously processed
 - (b) all processing is carried out in an accurate, complete and timely manner
 - (c) output from the system is complete, accurate and timely.
- 5.2.9 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 5.2.10 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 5.2.11 To ensure that systems are documented and staff trained in operations.
- 5.2.12 To consult with the Interim Chief Finance Officer before changing any existing financial system or introducing new financial systems.
- 5.2.13 To establish a scheme of delegation identifying officers authorised to act upon the Head of Services behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 5.2.14 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Interim Chief Finance Officer, together with any subsequent variations.

- 5.2.15 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 5.2.16 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation, that staff are aware of their responsibilities under the legislation and that no system operates live unless the Data Protection Officer has confirmed that all legislative requirements have been met.
- 5.2.17 To ensure that relevant standards and guidelines for computer systems issued by the Head of Service responsible for IT are observed.
- 5.2.18 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 5.2.19 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
 - (a) only software legally acquired and installed by the Shadow Authority is used on its computers
 - (b) staff are aware of legislative provisions
 - (c) in developing systems, due regard is given to the issue of intellectual property rights.

5.3 Computing

- 5.3.1 To seek the final approval for all Information and Communications Technology (ICT) development acquisitions and implementation from the Head of Service responsible for IT, unless otherwise delegated.
- 5.3.2 To ensure that all activities and processes relating to the evaluation, development, acquisition and implementation of ICT conform to the Shadow Authority's IS/IT Strategy, Standards and Procedures.
- 5.3.3 To ensure that all ICT acquisitions are conducted in accordance with the Shadow Authority's Procurement Procedure Rules and, where appropriate, relevant legislation and EU directives.

- 5.3.4 To ensure that all ICT acquisitions and developments are cost justified and that the benefits are required and necessary to meet the Shadow Authority's service and business objectives.
- 5.3.5 To ensure that before any new acquisition or development of information systems is undertaken, a project plan, business specification and estimated costs are submitted to the Head of Service responsible for IT for consideration before the project commences.
- 5.3.6 To submit all bids for the acquisition or the development of new information systems or information technology, whether to be met from within existing budgets, through growth bids or centrally controlled re-investment, initially to the Head of Service responsible for IT for initial evaluation and, where appropriate, authorisation.
- 5.3.7 If the proposed acquisition or development is complex, high cost or high risk, the Head of Service responsible for IT will submit the project proposal or bid to the Shadow Executive and Interim Head of Staff, for consideration and, where appropriate, authorisation.
- 5.3.8 Prior to any ICT projects or acquisitions being submitted to Shadow Executive Shadow Members for approval, to ensure that authorisation is obtained from the Head of Service responsible for IT, and the Interim Head of Staff, as appropriate.
- 5.3.9 To ensure that, in order to facilitate the co-ordination and efficient use of the Shadow Authority's IS/IT resources, the Head of Service responsible for IT is consulted before any negotiations commence or commitments are made to acquire, rent or lease any computer equipment (including communications technologies and peripherals), software or computer training.
- 5.3.10 To ensure that, in order that the Shadow Authority's interests are protected, any contracts for ICT are submitted to the Head of Service responsible for IT and Interim Monitoring Officer before being entered into.

5.4 Income

- 5.4.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Shadow Authority's cash-flow and also avoids the time and cost of administering debts.

Key Controls

- 5.4.2 The key controls for income are:

- (a) all income due to the Shadow Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
- (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- (c) all money received by an employee on behalf of the Shadow Authority is paid without delay to the Interim Chief Finance Officer or, as he or she directs, to the Shadow Authority's bank accounts, and properly recorded. The responsibility for cash collection should be separated from that:
 - for identifying the amount due
 - for reconciling the amount due to the amount received
- (d) effective action is taken to pursue non-payment within defined timescales
- (e) formal approval for debt write-off is obtained
- (f) appropriate write-off action is taken within defined timescales
- (g) appropriate accounting adjustments are made following write-off action
- (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule

- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.
- (j) no income received is paid into a Petty Cash account.

Responsibilities of the Interim Chief Finance Officer

- 5.4.3 To agree arrangements for the collection of all income due to the Shadow Authority and to supervise/approve the procedures, systems and documentation for its collection.
- 5.4.4 To order and supply to divisions all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- 5.4.5 To approve all debts to be written off in consultation with the relevant Head of Service, to keep a record of all sums written off and to adhere to the requirements of the most recent Accounts and Audit Regulations.
- 5.4.6 In consultation with Heads of Service, to report upon all irrecoverable sums.
- 5.4.7 To ensure that appropriate accounting adjustments are made following write-off action.
- 5.4.8 To ensure that outdoor collections of any cash whatsoever are, subject to proper safeguards, paid in at approved Post Offices or bank branches. Any remaining outdoor and any indoor collections not banked during normal banking hours on the day of receipt, shall be placed either in a night safe or in a locked safe and banked the following day. These should be kept to a minimum and a night safe facility used for any weekend and bank holiday bankings.
- 5.4.9 To ensure that proper procedures for collection of income by credit or debit card, either in person, by telephone or electronic methods, are in place to minimise risk and ensure proper accountability of such transactions.

Responsibilities of Central Implementation Team

- 5.4.10 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.

- 5.4.11 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 5.4.12 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 5.4.13 To issue official receipts or to maintain other documentation for income collection.
- 5.4.14 Where possible to ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 5.4.15 To hold securely receipts, tickets and other records of income for the appropriate period.
- 5.4.16 To ensure that income is paid fully, without deduction, and promptly into the appropriate Shadow Authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis. Every cheque or similar instrument shall have a crossing approved by the Interim Chief Finance Officer.
- 5.4.17 To ensure the safe keeping of cash and cheques received until such time as they can properly be banked, which in any event must be within 24 hours of receipt.
- 5.4.18 To ensure income is not used to cash personal cheques or other payments other than under arrangements approved by the Interim Chief Finance Officer and supported by a valid banker's cheque or credit card as appropriate.

- 5.4.19 To supply the Interim Chief Finance Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Interim Chief Finance Officer to record correctly the sums due to the Shadow Authority and to ensure accounts are sent out promptly. To do this, Heads of Service should use established performance management systems to monitor recovery of income and flag up areas of concern to the Interim Chief Finance Officer. Heads of Service have a responsibility to assist the Interim Chief Finance Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Shadow Authority's behalf. Only up to approved levels of cash can be held on the premises.
- 5.4.20 To keep a record of every transfer of money between employees of the Shadow Authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 5.4.21 To recommend to the Interim Chief Finance Officer all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 5.4.22 To notify the Interim Chief Finance Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Interim Chief Finance Officer.
- 5.4.23 In consultation with the Interim Chief Finance Officer, to submit, at least annually, a schedule of recommended fees and charges for services for consideration by Shadow Executive Shadow Members, together with their proposals for amendment.

5.5 Expenditure - Ordering And Paying For Work, Goods And Services

- 5.5.1 Public money should be spent with demonstrable probity and in accordance with any Shadow Authority policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Shadow Authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

General

- 5.5.2 Every officer and Member of the Shadow Authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Shadow Authority.
- 5.5.3 Official orders must be issued for all procurements apart from exceptions specified in the Procurement Procedure Rules.
- 5.5.4 Apart from petty cash and other payments from advance accounts, the normal method of payment from the Shadow Authority shall be by cheque or other instrument or approved method, drawn on the Shadow Authority's bank accounts by the Interim Chief Finance Officer.
- 5.5.5 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Shadow Authority contracts, unless specifically authorised by the Interim Chief Finance Officer.

Key Controls

- 5.5.6 The key controls for ordering and paying for work, goods and services are:
- (a) all goods and services shall be ordered in accordance with the Shadow Authority's Procurement Procedure Rules for tenders and contracts unless they are purchased from sources within the Shadow Authority.
 - (b) goods and services received are checked to ensure they are in accordance with the order.

- (c) payments are not made unless goods have been received by the Shadow Authority to the correct price, quantity and quality standards
- (d) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- (e) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the finance document retention schedule
- (f) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected

Responsibilities of the Interim Chief Finance Officer

- 5.5.7 To ensure that all the Shadow Authority's financial systems and procedures are sound and properly administered.
- 5.5.8 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 5.5.9 To approve the form of official orders and associated terms and conditions.
- 5.5.10 To make payments from the Shadow Authority's funds on the appropriate Head of Service authorisation that the expenditure has been duly incurred in accordance with financial procedure rules.
- 5.5.11 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 5.5.12 To make payments to contractors on the certification of the appropriate Head of Service, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 5.5.13 To provide advice and encouragement on making payments by the most economical means.

- 5.5.14 Examine such final accounts for contracts, to the extent he considers necessary, and shall be entitled to make any enquiries and receive any information and explanations, which he considers necessary to satisfy himself of the accuracy of the accounts. On completion, to notify the certifying officer that the examination is complete and that a final certificate can be issued.

Responsibilities of Central Implementation Team

- 5.5.15 To ensure that the system in operation generates unique sequentially numbered official orders that are used for all goods and services, other than the exceptions specified in 5.5.3 and that the order includes an estimate of the cost.
- 5.5.16 Save where the Interim Chief Finance Officer expressly authorises it, to ensure that orders are only used for goods and services provided to the service directorates.
- 5.5.17 To ensure that only those staff authorised by him or her can approve orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that any necessary quotations or tenders and any trade discounts have been obtained. Best value principles should underpin the Shadow Authority's approach to procurement.
- 5.5.18 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services
 - (b) that the invoice has not previously been paid and is properly due from the Shadow Authority.
 - (c) that expenditure has been properly incurred and is within budget provision
 - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
 - (e) correct accounting treatment of tax

- (f) that the invoice is correctly coded
 - (g) that discounts have been taken where available
 - (h) that appropriate entries will be made in accounting records, inventories, stores books etc.
- 5.5.19 To ensure that at least two Members of staff are involved in the ordering, receiving and payment process. A different officer to authorise the invoice from the person who signed the order.
- 5.5.20 To ensure that the division maintains and reviews at least annually a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Interim Chief Finance Officer.
- 5.5.21 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice, except in agreement with the Interim Chief Finance Officer and providing the supplier has confirmed that the document is an exact match of the original and can be supported by relevant documentation. The reason for the copy must be stated on the invoice.
- 5.5.22 To encourage suppliers of goods and services to receive payment by the most economical means for the Shadow Authority. It is essential, however, that payments made by direct debit have the prior approval of the Interim Chief Finance Officer.
- 5.5.23 To ensure that the division obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the Interim Chief Finance Officer, which are in line with best value principles and contained in the Shadow Authority's Procurement Procedure Rules.
- 5.5.24 To ensure that no amendment is made to incorrect accounts which include VAT. These accounts must be returned for correction or held pending receipt of a credit note and a correct account.

- 5.5.25 To ensure that all employees follow any guidance on invoice processing issued from time to time by the Interim Chief Finance Officer in relation to the requirements of the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.5.26 To make payments to contractors on account of contracts only where properly certified by the appropriate Head of Service or Interim Chief Finance Officer, or an employee nominated by him in writing for the purpose. A certificate issued by a private architect, engineer or consultant engaged by the Shadow Authority must be countersigned by the appropriate Head of Service or nominee.
- 5.5.27 Authorise every extra or variation, in writing, unless carried out by a private architect, engineer or consultant or nominated employee and subject to the provisions of the contract in each case.
- 5.5.28 To ensure that employees are aware of the national code of conduct for local government employees (contained as part of the terms and conditions of service).
- 5.5.29 To ensure that loans, leasing or rental arrangements are arranged only by the Interim Chief Finance Officer, who may ask the Shadow Authority to approve operating leases without prior Shadow Executive approval providing there is no impact on the Shadow Authority's capital resources. A notice period of (up to) four months is required for full details of requirements.
- 5.5.30 To notify the Interim Chief Finance Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Interim Chief Finance Officer and, in any case, not later than a date specified by the Interim Chief Finance Officer from year to year.
- 5.5.31 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Interim Chief Finance Officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

- 5.5.32 To notify the Interim Chief Finance Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 5.5.33 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

5.6 Payments To Employees And Shadow Members

- 5.6.1 It is important that payments are accurate, timely, made only where they are due for services to the Shadow Authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Shadow Members' allowances are authorised in accordance with any scheme adopted by the Shadow Authority.

Key Controls

- 5.6.2 The key controls for payments to employees and Shadow Members are:
- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
 - starters
 - leavers
 - variations
 - enhancementsand that payments are made on the basis of timesheets or claims
 - (b) frequent reconciliation of payroll expenditure against approved budget and bank account
 - (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the finance document retention schedule
 - (d) that Inland Revenue regulations are complied with.

Responsibilities of the Interim Chief Finance Officer

- 5.6.3 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- 5.6.4 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 5.6.5 To make arrangements for payment of all travel and subsistence claims or allowances.
- 5.6.6 To make arrangements for paying Shadow Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 5.6.7 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 5.6.8 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

Responsibilities of Central Implementation Team

- 5.6.9 To ensure appointments are made in accordance with the regulations of the Shadow Authority and approved establishments, grades and scale of pay and that budget provision is adequate.
- 5.6.10 Each Head of Service shall notify the appropriate Human Resources Officer as soon as possible and in the form prescribed by him, of all matters affecting the payment of salaries, wages and pension emoluments, in particular:
 - (a) appointments, resignations, dismissals, suspensions, secondments and transfers
 - (b) absences from duty for sickness or other reasons, apart from approved leave with pay.
 - (c) Details of approved leave with pay, which has been authorised for any employee who is leaving the Shadow Authority's service.

- (d) Changes in remuneration, other than pay awards and agreements of general application. Heads of Service are responsible for notifying the Interim Chief Finance Officer of the withholding of annual increments.
- (e) Information necessary to maintain records of service for pensions, income tax, national insurance and similar payroll related data.

5.6.11 To ensure that adequate and effective systems and procedures are operated, so that:

- payments are only authorised to bona fide employees
- payments are only made where there is a valid entitlement
- conditions and contracts of employment are correctly applied
- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness
- all salary related input data is received by Interim Chief Finance Officer by 5th of the month in question.

5.6.12 All time records or other pay documents shall be in a form prescribed or approved by the Interim Chief Finance Officer and shall be certified in writing by, or on behalf of, the Head of Service. The names of employees authorised to countersign these records shall be sent to the Interim Chief Finance Officer by each Head of Service, together with specimen signatures and any changes, which may occur from time to time.

5.6.13 To ensure that payroll transactions are processed only through the payroll system. Heads of Service should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Interim Chief Finance Officer or appropriate Human Resources Officer.

- 5.6.14 To certify travel and subsistence claims and other allowances and to submit them, together with any supporting documents, to the Interim Chief Finance Officer in the approved form, made up to the last day of the month and within five working days. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Shadow Authority, ensuring that cost-effective use of travel arrangements is achieved. Employees claims submitted more than three months after the expenses were incurred will be paid only with the express approval of the Interim Chief Finance Officer. Due consideration should be given to tax implications and that the Interim Chief Finance Officer is consulted where appropriate.
- 5.6.15 To ensure that the appropriate Human Resources Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 5.6.16 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the finance document retention schedule.
- 5.6.17 To ensure that the Interim Chief Finance Officer is regularly provided with the names of employees currently authorised to countersign these records together with specimen signatures.

Responsibilities of Shadow Members

- 5.6.18 To submit claims for Shadow Members' travel and subsistence allowances on a regular basis to the Interim Monitoring Officer using the prescribed form and including all supporting documents, within two months of the meeting.

5.7 Taxation

- 5.7.1 Like all organisations, the Shadow Authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

Key Controls

- 5.7.2 The key controls for taxation are:

- (a) budget managers are provided with relevant information and kept up to date on tax issues
- (b) budget managers are instructed on required record keeping
- (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- (d) records are maintained in accordance with instructions
- (e) returns are made to the appropriate authorities within the stipulated timescale.

Responsibilities of the Interim Chief Finance Officer

- 5.7.3 To complete all Inland Revenue returns regarding PAYE.
- 5.7.4 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.
- 5.7.5 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.
- 5.7.6 To maintain up-to-date guidance for Shadow Authority employees on taxation issues.

Responsibilities of Central Implementation Team

- 5.7.7 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.
- 5.7.8 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 5.7.9 In conjunction with the appropriate Human Resources Officer, to ensure that all persons employed by the Shadow Authority are added to the Shadow Authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 5.7.10 To follow any guidance on taxation issued by the Interim Chief Finance Officer.

5.8 Trading Accounts And Units

- 5.8.1 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the Best Value Performance Plan.

Responsibilities of the Interim Chief Finance Officer

- 5.8.2 To advise on the establishment and operation of trading accounts and business units.

Responsibilities of Central Implementation Team

- 5.8.3 To consult with the Interim Chief Finance 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 Shadow Authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- 5.8.4 To 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.
- 5.8.5 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

PROCUREMENT PROCEDURE RULES

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1. Introduction and basic principles

- 1.1 These Procurement Procedure Rules apply to all Council procurement with the exception of employment contracts.
- 1.2 Procurement decisions are among the most important decisions officers will make because the money involved is public money, and the Council is concerned to ensure that high quality goods, works and services are provided. Efficient use of resources in order to achieve best value is therefore imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.3 For these reasons, it is a disciplinary offence to fail to comply with these Procurement Procedure Rules. Employees have a duty to report breaches of Procurement Procedure Rules to an appropriate senior officer.
- 1.4 The Procedures lay down the minimum requirements. A more detailed procedure may be appropriate for a particular contract. If there is any doubt as to how to undertake any procurement then the officer must contact the Interim Chief Finance Officer for advice.
- 1.5 A contract includes the following:
 - any contract for goods, works or services, including disposals;
 - any order for goods, works or services;
 - a grant given or received by the Council;
 - a contract managed by consultants;
 - a contract appointing consultants;
 - any partnership arrangement;
 - contracts relating to the disposal or purchase of land and buildings;
 - any lease agreements for property and goods.
- 1.6 Both purchasing and disposal procedures must:
 - achieve best value for public money spent;
 - be consistent with the highest standards of integrity;
 - ensure fairness in allocating public contracts;
 - comply with legal requirements;
 - ensure that non-commercial considerations do not influence any contracting decision;
 - support the Council's corporate and service aims and policies;
 - comply with the Council's Financial Rules, Health and Safety, Environmental and Equal Opportunities (Diversity) requirements;
 - be able to demonstrate that the Council's interests have not been prejudiced or exposed to undue or unmanaged risks.

2. Responsibilities of officers

Officers

Every officer dealing with contracts must have written authority to do so. This can be in their job description or in written delegated authority from the Interim Head of Staff through the financial scheme of management delegation.

Officers responsible for purchasing and disposal must comply with the Council's Procurement Procedure Rules, Financial Procedure Rules and Code of Conduct together with all UK and European legal requirements.

Officers can sign contracts or issue orders in accordance with Table 1 of Clause 7.3 below.

Officers must comply with the guidance in the Procurement Toolkit.

Officers must use any relevant Corporate Contract already in place.

Officers must keep records to show a clearly documented audit trail. The Officer has a duty to log contracts on the Register of Contracts and to produce supporting records when requested to do so.

Officers must ensure that agents and consultants acting on their behalf comply with the requirements referred to in Contract Procedures 2.1.2 above. Such consultants must not make any decision as to whether to award a contract or who a contract should be awarded to.

Officers must take all necessary legal, financial and professional advice. If there is any doubt as to what needs to be done then contact the Interim Chief Finance Officer or the Interim Monitoring Officer.

Officers must:

Ensure they have the delegated powers for the contract and ensure that the project has the appropriate policy approval.

Ensure that there is full budgetary provision (including any maintenance and other charges) for the contract and that the sources of funding are fully detailed and agreed before starting the contract process.

Ensure that no tender is accepted where it exceeds the approved budget/cash limit by more than 10% unless prior written approval is obtained from the Interim Chief Finance Officer.

Ensure that expenditure is fully contained within the approved budget/cash limit and secured.

Ensure that they have issued appropriate staff with written delegation of the role that they may take in the contracting process on behalf of the Council.

2.2.6 Ensure that staff comply with Procurement Procedure Rules.

2.2.7 Ensure compliance with the Direction made under Section 24 of the Local Government Public Involvement in Health Act 2007.

3. Partnerships

3.1 Officers considering a partnership arrangement must, before starting any contract process, obtain advice from the Head of Staff and the Interim Chief Finance Officer. Appropriate legal advice should be sought on the partnership options available to ensure a workable solution including appropriate governance arrangements.

4. Exemption or waiver of Procurement Procedure Rules

4.1 Any of the Procurement Procedure Rules with the exception of the EU procedures may be exempted or waived in the circumstances listed in paragraph 4.3 below. Details of the exemption or waiver, and the reasons for them, must be recorded in writing and must be signed by the Officer and countersigned by the Interim Chief Finance Officer.

4.3 Waivers must be authorised prior to action being taken and will only be allowed in the following circumstances where the officer and the Interim Chief Finance Officer are satisfied that:

4.3.1 there is no genuine competition, for example, the goods, materials, services or works:

- (a) are sold only at a fixed price and no reasonably satisfactory alternative is available;
- (b) are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available;
- (c) are of a proprietary type only available from a single supplier;
- (d) are required for repairing or servicing existing specialist plant or equipment;
- (e) are approved by a consortium which has proved to be competitive and of which the council is a member;
- (f) involve the provision of professional legal or other services where the provider is an expert in the relevant field.

4.3.2 A waiver is necessary because of unforeseen emergency involving immediate risk to persons, property or serious disruption to Council services (In extreme circumstances it is accepted that prior written approval may not be possible).

4.3.3 There are other circumstances that are genuinely exceptional.

4.4 In addition:

4.4.1 The Interim Chief Finance Officer must be consulted where the purchase is to be made using collaborative procurement arrangements i.e. with another local council, government department, statutory undertaker or public service purchasing consortium.

4.4.2 The Interim Chief Finance Officer must agree that waiver is appropriate where the contract is an extension to an existing contract and where a change of supplier would cause:

- disproportionate technical difficulties;
- diseconomies of scale;
- significant disruption to the delivery of Council services.

4.5 The Interim Chief Finance Officer must be consulted prior to commencing any procurement process using the Office of Government Commerce Buying Solutions Contracts (OGC). The Terms and Conditions of Contract applicable to any OGC arrangement including the requirement to undertake competition between providers must be fully complied with.

5. Requirements for all contracts

5.1 All contracts (purchases) must be in writing and must clearly state:

- The goods, works or services to be provided;
- the agreed programme of delivery;
- the price and terms of payment;
- all other terms that are agreed;
- exit procedures, for when the contract comes to its natural end, and;
- termination procedures for early termination of the contract including when the contractor has not fulfilled his contractual obligations.

5.2 Every contract must comply with Financial Rules and any corporate procurement guidance, including EU procurement regulations, where appropriate.

6. Steps prior to letting a contract

6.1 Before letting a contract, Officers must:

- 6.1.1 Estimate the total value of the contract. For example, if the subject matter of the procurement is worth £15,000 over 5 years, the total value of the contract will be £75,000 (i.e. £15,000 x 5). This must include the value of allowance for extension to the contract and any ongoing costs (e.g. maintenance).
- 6.1.2 Take into account the whole-life costs of the contract.
- 6.1.3 Ensure that the contracting process is not used to create separate contracts in order to avoid the requirements of Contract Procedures or the requirements of the EU procurement regulations.
- 6.1.4 Ensure that there is sufficient budgetary provision for the goods or services required.
- 6.1.5 Provide evidence in writing that the risks that are associated with the contract have been assessed and suitable arrangements have been or can be put in place to manage them.
- 6.1.6 Identify whether there is an existing corporate contract, framework agreement, partnership arrangement etc. already in place.
- 6.1.7 Take into account the outcome from any strategic service review, if appropriate.
- 6.1.8 Define the objectives of the contract.
- 6.1.9 Evaluate what procurement method is most likely to achieve the Council's objectives, including internal/external sourcing, sourcing through a public sector consortium, packaging strategy or collaboration with another organisation.
- 6.1.10 Consult users, as appropriate, about the proposed procurement method and standards for the contract.
- 6.1.11 Ensure that Sustainability, Health and Safety and Equality and Diversity issues are considered.
- 6.1.12 Retain evidence that the above steps have been carried out, for examination by internal or external auditors.
- 6.1.13 Ensure confidentiality when dealing with contractual matters. Officers must not disclose any information regarding tenders to anyone who is not involved in the selection process.
- 6.1.14 In circumstances that it is likely that employees will transfer to a new employer as a result of a new contract, seek advice

with regard to the application of TUPE – Transfer of Undertakings (Protection of Employment) Regulations 2006.

7. Requirements to ensure competition

7.1 Where the total value of the contract is less than £60,000, officers may identify potential suppliers using the most cost-effective and reasonable method. This may initially include reference to electronic catalogues, though other catalogues, business directories etc. may be used.

7.2 As a minimum and where the estimated value of a contract is:

7.2.1 **up to £5,000** One written quotation is required. The aim of the officer responsible for the contract shall be to obtain the best value for money for the Council. An officer with authorised approval can sign/approve the contract/order.

7.2.2 **between £5,000 and £60,000** Three written quotations are required. The aim of the officer responsible for the contract shall be to obtain the best value for money for the Council. The Interim Chief Finance Officer or Interim Monitoring Officer can sign/approve the contract/order.

7.2.5 **between £60,000 and EU Threshold** The officer responsible for the contract must comply with one of the following options:

- follow a publicly advertised competitive tender process inviting a minimum of 3 suppliers/qualified entities to bid, (see paragraph 8).

Or

- select at least three contractor from an approved list of contractors, (see paragraph 9).

In both of the above options, the Officer must use conditions of contract approved by the Interim Monitoring Officer or appropriate professional institute conditions of contract or a contract which has been approved by an appropriate legal advisor. The Interim Head of Staff must sign/approve the contract.

7.3 Above **European Union Thresholds** which at 1st January 2008 are: **Works** £3,497,313 **Supplies and Services** £139,893. Contracts must be advertised according to EU procurement law (further guidance can be found in the South Bedfordshire District Council Procurement Toolkit). The officer responsible for the

contract must, before starting the contract process, obtain appropriate legal advice.

- 7.4 **Tender Thresholds** – Table 1 below summarises details of the Council's Contract Value thresholds. The Executive must be consulted and approve expenditure before the commencement of procurement for contracts over £500,000. Following approval the Executive will only need to approve the award of contracts where the recommended contractor's tender is in excess of the approved sum or there are exceptional circumstances.

Table 1

Total Contract Value	Contract/Order signed by:	Expenditure approved by:	Short listing approved by:	Procurement procedure
Up to £5,000	Authorised Officer	Authorised Officer	No short listing required	One written quotation (e mail will suffice)
£5,000 to £60,000	Interim Chief Finance Officer or Interim Monitoring Officer	Interim Chief Finance Officer	No short listing required	Three written quotations
£60,000 to EU thresholds	Interim Head of Staff or Interim Monitoring Officer	Interim Head of Staff	Officer, Interim Chief Finance Officer	Invitation to tender to at least 3 candidates by advert/list
Above EU thresholds	Interim Head of Staff or Interim Monitoring Officer	Interim Head of Staff Executive above £500,000	Officer, Interim Chief Finance Officer	EU tender process applies

8. Competitive tendering process

- 8.1 Where the total value of the contract is more than £60,000, officers must ensure there is sufficient competition and that the contract is appropriately advertised. Any tender process must ensure that potential candidates provide sufficient detail to enable officers to determine whether they:

8.1.1 Are financially stable.

8.1.2 Have appropriate technical ability to undertake the sort of contract they wish to be considered for.

- 8.1.3 Are able to check their health and safety, environmental, equality and diversity and other records.
- 8.2 Where the total value of the contract is more than £60,000 and there is no approved list or corporate contract for the contract, officers must invite tenders by public advertisement. Public advertisement may include advertising the contract on the Council's website.
- 8.3 The Council's best practice suggests that a period of no less than four weeks must be allowed for potential tenderers to receive and submit their expressions of interest and/or return of completed tender for any council contract. Where EU regulations apply, the relevant time limits apply.
- 9. Creation and maintenance of an approved list and framework agreements**
- 9.1 Approved lists:
- 9.1.1 As an alternative to advertising contracts, officers may use approved lists to select tenderers. However, approved lists cannot be used where the total value of the intended contract exceeds the EU procurement threshold (currently Works £3,497,313; Supplies and Services £139,893). The Executive must be consulted before the commencement of tenders over £500,000, for policy signoff.
- 9.1.2 When the list is first created, and every three years afterwards, an advertisement must be placed on the Council's website and at least one appropriate journal stating the Council's intent to create an approved list.
- 9.1.3 Potential candidates for the list must be asked to provide details (in accordance with the Procurement Toolkit), that will enable the Council to:
- Ensure that they are financially stable;
 - ensure that they have appropriate technical ability to undertake the sort of contract they wish to be considered for;
 - check their health and safety, environmental, equality and diversity and other appropriate records.
- 9.1.4 The maintenance of any list will be the responsibility of the appropriate Interim Chief Finance Officer.
- 9.1.5 An accredited government scheme, subject to approval by the Interim Chief Finance Officer is also considered to be

an approved list for the purpose of these Contract Procedures.

9.2 Framework agreements

9.2.1 The term of any framework agreements may be for any period but must not exceed 4 years (EU requirement).

9.2.2 Where the framework agreement is concluded with several organisations, there must be at least 3 in number. Contracts based on framework agreements may be awarded either:

9.2.2.1 By applying the terms laid down in the framework agreement (where terms are sufficiently precise to cover the particular call-off) without reopening competition; or

9.2.2.2 Where the terms laid down in the framework agreement are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure;

9.2.2.3 Inviting the organisations within the framework agreement who are capable of executing the subject of the contract to submit written tenders.

9.2.2.4 Fixing a time limit, that is sufficiently long, to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract.

9.2.2.5 Tenders shall be submitted in writing, and their content shall remain confidential until the stipulated time limit for reply has expired

9.2.2.6 The Council must award each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specifications of the original framework agreement.

10. Award criteria

10.1 Officers must ensure that award criteria selected are appropriate to the contract and that these are signed off by the appropriate officer.

- 10.2 Officers must design award criteria to ensure best value for money for the Council. Particular emphasis must be placed on cost, quality and timeliness of the service or supplies (goods).
- 10.3 The pre-agreed award criteria for assessing the bid must not be changed after tender proposals have been opened and must be signed off by the officer who approved the original award criteria.

11. Invitations to tender/quotations

- 11.1 The officer must ensure that Invitations to Tender (ITT) and Invitations to Quote (ITQ or sometimes RFQ – Request for Quotation) include a specification. The specification must describe clearly the Council's requirements in sufficient detail to ensure the submission of competitive bids may easily be compared.
- 11.2 The Invitation to Tender/Quote must state that the council is not bound to accept any quotation or tender.
- 11.3 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same terms. Any additional information or amendments to the specification must be provided to all candidates on the same basis.
- 11.4 Officers who undertake procurement of works, goods and services with a total value of less than £60,000 must ensure that they follow the quotation procedures within the Procurement Toolkit.
- 11.5 In cases where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements set out in paragraph 7, all candidates must be invited to bid.
- 11.6 The Invitation to Tender/Quote must specify the award criteria in descending order of importance or any weighting to be used and the procedure to be adopted.
- 11.7 Unless the tendering process is by using an approved list, all Invitations to Tender/Quote must be advertised on the Council's website.

12. Shortlisting

- 12.1 Where approved lists are used, the responsible officer may undertake the shortlisting in accordance with the original award criteria.
- 12.2 Shortlisting must be undertaken with regard to the award criteria and include financial, technical and value for money considerations.

12.3 In the case of contracts let under the EU procedure, appropriate legal advice must be sought.

12.4 Where appropriate, officers may decide not to shortlist and to send Invitations to Tender/Quote to all applicants and evaluate all submissions.

13. Submission, receipt and opening of tenders/quotations

13.1 Candidates invited to bid must be given adequate time in which to submit a quotation or tender. At least four weeks must be allowed for submission of tenders. Note that the EU procedure sets out specific time periods.

13.2 All tenders submitted to the Council shall be in a sealed, plain envelope marked 'TENDER'. There must be no indication on the outside of the envelope of who the sender is. The envelope should be clearly addressed to the Interim Chief Finance Officer and should indicate the subject of the contract.

13.3 The Interim Chief Finance Officer shall be responsible for the safekeeping of tenders until opening. Receipt of each tender must be initialled and dated by the receiving officer.

13.4 A record must be made at the time of opening the tenders showing the name and address of the tenderers, the date and time of opening and the amount tendered (where possible). All those present at the tender opening shall sign the record as evidence that it is correct.

13.5 In the event of a marked or late tender then the Interim Chief Finance Officer must be advised and a decision made on whether the tender can be accepted.

14 Clarification procedures

14.1 After the tender opening, it may become apparent that one or more of the potential contractors that have submitted bids have misinterpreted the specification. If it is clear that this is a result of an error or ambiguity in the specification, the responsible officer must obtain appropriate legal advice as to whether all the contractors should be provided with revised specifications and given the opportunity to revise their tender.

15. Tender evaluation

- 15.1 Confidentiality of tenders/quotations and the identity of tenderers must be maintained at all times. Information about one tenderer's response must not be given to another tenderer.
- 15.2 This includes the situation when one part of the Council is tendering for a contract with another part of the Council. In such a situation, there must be a clear division between the two parties, with no advantage ensuing for the internal candidate.
- 15.3 Officers must evaluate and award the contract in accordance with the agreed award criteria in the Invitation to Tender/Quote.
- 15.4 The reasons for the selection of the successful candidate should be recorded on the evaluation report. The officer carrying out the evaluation must sign the report. Authorisation to award the contract must be given in writing by an officer who has written delegated authority to do so.

16. Contract documents

- 16.1 Every contract over £60,000 must be recorded on the Council's Register of Contracts. To ensure this process is completed successfully, every contract must be recorded in writing, and must state clearly:
 - 16.1.1 What is to be supplied (description and quality).
 - 16.1.2 Payment provisions (amount and timing).
- 16.2 Every contract over £60,000 must state clearly
 - 16.2.1 When the Council will have the right to terminate the contract.
 - 16.2.2 That the contract is subject to the law as to prevention of corruption (see section 20). The Council's standard terms and conditions of purchase must be used where possible.
- 16.3 In addition, every contract over £60,000 must state clearly:
 - 16.3.1 That the contractor may not assign or sub-contract part or all of the activity without prior written consent.
 - 16.3.2 All insurance requirements.
 - 16.3.3 Health and safety requirements.

- 16.3.4 Any ombudsman requirements.
- 16.3.5 Data protection requirements if relevant.
- 16.3.6 Race Relations Act requirements.
- 16.3.7 Disability Discrimination Act requirements.
- 16.3.8 Freedom of Information Act requirements.
- 16.3.9 Where an agent (consultants or contractors) is used to let a contract, that agent must comply with the Council's Contract Procedures relating to contracts.
- 16.3.10 The right of access to relevant documentation and records of the contractor for monitoring and audit purposes.

16.4 Appropriate legal advice must be sought for contracts:

- 16.4.1 that involve any leasing arrangements, other than property
- 16.4.2 where it is proposed to use the supplier's own terms.
- 16.4.3 That are complex in any other way.

16.5 Race, disability and gender equality issues:

- 16.5.1 Officers must note that the Race, Disability and Gender Equality duties require all statutory agencies to eliminate discrimination and promote equality of opportunity. Through a variety of specific duties, the Council is required to ensure services are targeted on the most vulnerable sections of the community and that inclusion/participation rates amongst these groups are increased. Recent access to services legislation makes discrimination on the grounds of religion and belief or sexual orientation illegal.
- 16.5.2 Legislation such as the Disability Discrimination Act and Race Relations (Amendment) Act etc make it clear that when the Council contracts, it still retains responsibility for

ensuring that services are provided in an appropriate and non discriminatory way. This requires consideration of equality to be built into all the Council's procurement and contract management processes.

16.5.3 Any partner organisations, consultants or organisations acting on behalf of the Council will be required to ensure that all policies relating to Race, Disability and Gender Equality are fully complied with. Checks may be made to ensure that these organisations are aware of and addressing equality and diversity legislation.

17. Bonds and parent company guarantees

17.1 A bond is an insurance policy, if the contractor does not do what is agreed under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from a contractor's failure. The officer must consult the Interim Chief Finance Officer as to whether a bond is appropriate. Generally a bond will be required:

- where the total value exceeds £500,000;
- where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract.

17.2 A parent company guarantee is a contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead. The Interim Chief Finance Officer must be consulted when:

- A candidate is a subsidiary of a parent company, the officer does not think a parent company guarantee is necessary and any of the following conditions are satisfied;
- the total value exceeds £60,000;
- award is based on the evaluation of the parent company;
- there is some concern about the financial stability of the candidate.

18. Award of contract

18.1 All candidates must be notified in writing, simultaneously and as soon as possible, as to the outcome of the tender exercise.

18.2 In the case of those contracts that fall within EU procurement rules a statutory standstill of 10 days must apply between the notification of the tenderers and the successful candidate signing the contract, to allow for the decision to be challenged by any unsuccessful

candidates.

18.3 The contract can only be signed by an officer who has the authority to do so – see 7.3.

19. Sealing a contract

19.1 Where a contract has a bond or guarantee or is over the EU threshold, it shall be sealed on behalf of the Council.

19.2 Any contract under the EU threshold shall be signed by an authorised officer as set out in 7.3 above.

20 Prevention and detection of corruption

20.1 The officer must comply with the Council's Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in 20.2.

20.2 The following clause must be put in every written council contract:

“The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following:

- *Offer, give or agree to give to anyone any inducement or reward in respect of this or any other council contract (even if the contractor does not know what has been done);*
- *commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972;*
- *commit any fraud in connection with this or any other council contract whether alone or in conjunction with council members, contractors or employees;*
- *violate the Council's Anti-Fraud policy. Any clause limiting the Contractor's liability shall not apply to this clause”.*

20.3 All officers and suppliers are expected to adhere to the Council's Anti-Fraud policy. The Council has a zero tolerance policy on fraud and has a confidential reporting mechanism (known as whistle blowing) for genuine reporting of malpractice.

21. Managing contracts

21.1 All contracts must have a named officer contract manager for the entirety of the contract.

21.2 Contract managers must follow the procedures set out in the Procurement Toolkit.

22. Register of contracts

22.1 The Council is required to maintain a Register of Contracts. It is the responsibility of the relevant officer to ensure that any contract with a value of over £60,000 is included on the Council's Register of Contracts.

23. Risk assessment and business continuity planning

23.1 For all contracts with a value of over £60,000, contract managers must:

- maintain a risk register during the contract period;
- undertake appropriate risk assessments;
- ensure, for identified risks, contingency measures are in place;
- ensure critical support and maintenance arrangements are documented in the specification in order to avoid costly post-tender negotiation.

23.2 Business continuity is critical to the successful delivery of council services. The officer must ensure that appropriate business continuity arrangements are in place and fully tested to enable services to be delivered in the event of any unforeseen incident occurring. The requirement for a Business Continuity Plan must be an integral element of the Council's specification.

24. Post contract monitoring, evaluation and review

24.1 All contracts which have a value higher than the EU threshold limits, or which are high-risk, are to be subject to monthly formal review with the contractor.

24.2 The Council's developed contract review process must be applied to all contracts deemed either high risk, high value, or, high profile. This process must be applied at key stages of major procurements.

24.3 During the life of the contract the officer must monitor in respect of:

- Performance;
- compliance with specification and contract;
- cost;
- any value for money requirements;
- user satisfaction and risk management.

24.4 Where the total value of the contract exceeds £60,000, the officer must make a written report evaluating the extent to which the need and the contract objectives were met by the contract. This

should be done when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the contract.

25. Termination of contract

25.1 An officer shall not terminate a contract over £60,000 prior to its expiry date without first obtaining appropriate legal advice.

25.2 Where there is an intention to terminate a contract early, the Officer shall report the reasons for this termination to the Interim Chief Finance Officer at the earliest opportunity.

25.3 Officers must seek appropriate legal advice if payments to a contractor are to be withheld or there is any other problem with the contract which may result in possible early termination.

26. Appointment of consultants to provide procurement services

26.1 The Council uses the expertise of specialist consultants to undertake a range of procurement exercises on behalf of the Council. Officers must ensure that such consultants are fully briefed as to Procurement Procedures:

26.1.1 Consultants, whether technical or professional, must be selected, and any commissions awarded, in accordance with these contract procedures.

26.1.2 The engagement of a consultant shall follow the agreement of a 'brief' that describes the scope of the services to be provided and shall be subject to completion of a formal contract.

26.1.3 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant director for the duration of the contract.

26.1.4 Consultants will generally be paid on results (outputs) as opposed to a daily/weekly fee. The officer must sign off the business case to engage a consultant prior to any agreement between parties. The business case must clearly identify the outputs required and the schedule of fees to be paid.

27. Technical amendments to Procurement Procedures

27.1 The Interim Monitoring Officer may make technical amendments when necessary to ensure that these Procurement Procedure

Rules remain up to date and consistent with legislation, the Council's organisation, structure and generally with best practice. These amendments shall be subject to consultation with the Interim Chief Finance Officer.

27.2 Financial thresholds as set out in paragraph 7, may only be altered or amended following consultation and agreement of the Executive.

28. Land and property

28.1 Appropriate professional advice must be sought on all matters relating to property. This also includes matters relating to building maintenance and the commissioning of any new build project.

28.2 All valuations and negotiations shall be conducted by appropriately qualified staff.

28.3 No purchase of land or property (freehold or leasehold) may be made without the prior approval of the Interim Head of Staff and Interim Chief Finance Officer.

29. Asset disposals (other than land or property)

29.1 A check should be made to determine whether there is a corporate policy or contract for the disposal of the asset. If a policy or contract is in place, this must be used.

29.2 Office equipment and furniture should first be advertised on the "Office Equipment" section of the Intranet, and communicated to schools and other establishments of the Council. Where this method of disposal is unsuccessful, the goods may be sold according to the paragraphs below.

29.3 Disposal must be either by public auction or by obtaining three quotes from suitable contractors.

29.4 The responsible officer for the disposal must ensure that the Council is receiving value for money, and that the contractor used is reputable and evidence of this must be retained.

29.5 Items for disposal must not be given to any member of staff without suitable authorisation from the Interim Chief Finance Officer.

30. e-procurement

30.1 Where e-procurement is utilised appropriately it can deliver significant savings and support more efficient procurement working practices. Traditional approaches can therefore be challenged and these Contract Procedures specifically permit the use of e-

procurement.

31. e-tendering, e-sourcing, e-RFQ (request for quotation)

31.1 At the discretion of the Interim Chief Finance Officer, requests for quotations and/or invitations to tender may be either issued and/or received by electronic means. In circumstances where the officer elects to either issue and/or receive tenders by electronic means the following conditions shall apply:

31.1.1 The officer shall ensure that evidence that the transmission was successfully completed is obtained and recorded.

31.1.2 Electronic tenders received are kept in a separate secure folder under the control of the officer.

31.1.3 Under no circumstances shall any documents received from tenderers be amended.

Procurement Definitions

“Approved List”	A list drawn up in accordance with paragraph 9.
“Agent”	A person or organisation acting on behalf of the Council or on behalf of another organisation.
“Award Criteria”	The criteria by which the successful quotation or tender is to be selected
“Award Procedure”	The procedure for awarding a contract as specified in paragraph 18.
“Best Value”	The duty, which the Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. (Note: This terminology has now in many instances been superseded with Value for Money)
“Bond”	An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from a contractor’s failure.
“Business Continuity Plan”	A BCP is how an organisation prepares for future incidents that could jeopardise the organisation’s core mission and its stability. Incidents include local incidents like building fires, regional incidents like floods, epidemics or national incidents like pandemics.
“Candidate”	Any person who asks or is invited to submit a quotation or tender.
“Code of Conduct”	The Council’s code regulating conduct of members and officers.
“Committee”	A committee, which has power to make, decisions for the Council, for example a joint committee with another local council but not a scrutiny committee.

“Constitution”	The Constitutional document approved by the Council which: allocates powers and responsibility within the Council and between it and others; delegates authority to act to the Shadow Executive, Committees, Portfolio Holders and officers; regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.
“Consultant”	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.
“Contracting Council”	The organisation that is letting the contract in question.
“Contracting Decision”	Any of the following decisions: <ul style="list-style-type: none"> • composition of approved lists; • withdrawal of Invitation to Tender; • whom to invite to submit a quotation or tender; • short listing; • award of contract; • any decision to terminate a contract.
“Contract	A contract award notification form that must be completed for all relevant contracts a copy of which must be e-mailed to the Head of Procurement.
“Corporate Contract”	A contract let by the Council to support the Council’s aim of achieving Value for Money. Where a corporate contract is in place, the officer is obliged to use it unless a waiver has been granted under Section 4 of Contract Procedures.
“Council”	For the purposes for these Rules, “Council” refers to Central Bedfordshire Council.
“CBC”	The Central Buying Consortium.
“CBC Contract”	A contract let by CBC on behalf of the Council to support the Council’s aim of achieving Value for Money. Where a suitable CBC contract exists, the officer must use it unless there are auditable reasons for not doing so. See also “Framework Agreement”.

“Discrete Operational Unit”	Means a unit: To which the decision to purchase (and budget) has been devolved; for the sole use of which the purchase is intended; which takes the decision independently of any other part of the Council.
“EU Procedure”	The procedure required by the EU where the total value exceeds the EU threshold (see the Guide to Procurement for the tendering rules).
“EU Threshold”	The contract value at which the EU public procurement legislation must be applied.
“European Economic Area”	The 27 members of the European Union, and Norway, Iceland and Liechtenstein.
“Executive”	The Council’s Executive as defined in the Constitution.
“Evaluation Report”	A report produced by the officer detailing the outcome of the evaluation process undertaken, from which a recommendation is put forward for approval by an officer.
“Interim Chief Finance Officer”	The Chief Finance Officer appointed by the Council in accordance with the Implementation Order.
“Financial Rules”	The financial rules outlining officer responsibilities for financial matters issued by the Interim Chief Finance Officer in accordance with the Constitution.
“Framework Agreement”	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
“Government Procurement Agreement”	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are: the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
“High Profile”	A high-profile purchase is one which could have an impact on functions integral to Council service delivery including publicity and public interest should it fail or go wrong.
“High Risk”	A high-risk purchase is one which presents the potential for substantial exposure on the Council’s part should it fail or go wrong.

“High Value”

A high-value purchase is one where the value is greater than that of the EU threshold values.

“Invitation to Tender”

Invitation to Tender documents in the form required by the Procurement Procedures.

“Invitation to Tender by Advertisement”

An Invitation to Tender sent to candidates shortlisted from among either: Those responding to advertisement of the contract inviting proposals placed in such publications as shall secure widest publicity among relevant suppliers; those included on an approved list in respect of the type of purchase which is the subject of the Invitation to Tender.

“Irregular Tender”

An irregular tender is a tender, which is received after the appointed time for receipt or contains a mark of identification.

“Key Decision”

A key decision is an executive decision which is likely to:

- result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decisions relates. The financial threshold set by the Council for key decisions is £500,000 and above;
- be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the Council.

“Nominated Suppliers and Sub-contractors”

Those persons specified in a main contract for the discharge of any part of that contract.

“Non Commercial Considerations

Except as provided below, the following matters are non-commercial considerations:

- the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces (“workforce matters”);

- whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only;
- any involvement of the business activities or interests of contractors with irrelevant fields of government policy;
- the conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons (“industrial disputes”);
- the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors;
- any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;
- financial support or lack of financial support by contractors for any institution to or from which the Council gives or withholds support;
- use or non-use by contractors of technical or professional services provided by the Council under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined above in paragraphs (a) and (d) of this definition, cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Rules 1981 (“TUPE”) may apply.

“Officer”

The officer designated to deal with the contract in question.

“Open Procedure”

All candidates are invited to bid in response to advertisement.

“Official Journal of the European Union”	OJEU - the Official Journal of the European Union (formerly known as OJEC). This is the publication in which all contracts from the public sector which are valued above EU thresholds must be published.
“Parent Company Guarantee”	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
“Portfolio Holder”	A member of the Executive to whom political responsibility is allocated in respect of specified functions.
“Priority Services”	Those services required to be tendered as defined in the EU public procurement directives.
“Procurement”	Procurement is “the end to end process to acquire or commission goods, works and/or services at the best possible total cost of ownership, in the right quantity and quality, at the right time, in the right place for the direct or indirect benefit or use of the Council and the taxpayers of Bedfordshire, generally via a contract”
“Purchasing”	Purchasing refers to the Councils attempt to acquire goods or services to ensure its key objectives can be met. It sets standards in the purchasing process, through Contract Procedures. Note: Typically the word “purchasing” is not used interchangeably with the word “procurement”, since procurement typically includes a wide range of issues such as supplier quality and logistics in addition to the purchasing process.
“Purchase Card”	A card issued to an officer or member by the Council, to be used for purchasing goods or services of low value or for one-off purchases.
“Quotation”	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
“Relevant Contract”	A contract to which these Contract Procedures apply.
“Short listing”	Where candidates are selected to quote or bid to proceed to final evaluation.

“Service Level Agreement”

An SLA is a formally negotiated agreement between two parties. It exists between customers and their service provider. It records the common understanding about services, priorities, responsibilities, guarantee, etc. with the main purpose to agree on the level of service. For example, it may specify the levels of availability, serviceability, performance, operation or other attributes of the service like billing.

“Supervising Officer”

The line manager’s immediate superior.

“Tender”

A candidate’s proposal or offer submitted in response to an Invitation to Tender.

“Tender Thresholds”

The thresholds that determine the appropriate procurement route:

- The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal;
- whether or not it comprises several lots or stages;
- to be paid or received by the Council or a Discrete Operational Unit within the Council.

“Total Value”

The total value shall be calculated as follows:

- Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period;
- where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions over the period of the contract;
- where the contract is for an uncertain duration by multiplying the monthly payment by 48;
- for feasibility studies the value of the scheme or contracts which may be awarded as a result;
- for nominated suppliers and sub-contractors the total value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor.

**“TUPE Transfer of Undertakings
(Protection of Employment)”**

TUPE refers to the Transfer of Undertakings (Protection of Employment) Rules, 1981. These rules were introduced to ensure the protection of employees when, for example, a business is taken over by another organisation. Broadly, TUPE rules ensure that the rights of employees are transferred along with the business.

“Value for Money”

Value for Money (VfM) is not the lowest possible price; it combines goods or services that fully meet the needs of the council, with the level of quality required, delivery at the time needed and at an appropriate price. This includes the total cost of delivery (whole life cost).

“Whistle Blowing Policy”

The Public Interest Disclosure Act 1998 encourages individuals to raise concerns about malpractice in the workplace and this policy document makes it clear that employees can raise serious concerns without fear of victimisation, subsequent discrimination or disadvantage and is intended to encourage and enable employees to raise those concerns within the Council, rather than overlooking a problem or ‘blowing the whistle’ outside. The policy applies to all employees and those contractors working for the Council on Council premises. For example, agency staff, builders, and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises.

“Workforce Matters”

Authorities cannot focus on matters classed as ‘non-commercial’ considerations as part of the contractual process. However, the restrictiveness of the original definitions was considered too great, and so from 2001 authorities may consider the following matters to the extent that they are relevant to the delivery of best value or for the purposes of a TUPE transfer:

- the terms and conditions of employment by suppliers of their workers or the composition of, the arrangements for the promotion, transfer or training of or other opportunities afforded to, their workforces (section 17(5)(a));
- the conduct of suppliers or workers in industrial disputes between them (section 17(5)(d)). Restrictions on other non-commercial considerations listed in Section 17 of the Local Government Act 1988 remain in place.

PART 5

LOCAL GOVERNMENT ACT 2000

CONSTITUTION OF CENTRAL BEDFORDSHIRE SHADOW COUNCIL

CODES AND PROTOCOLS

PART 5

Codes and Protocols

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CENTRAL BEDFORDSHIRE COUNCIL SHADOW AUTHORITY

CODE OF CONDUCT FOR COUNCILLORS

Introduction

This Code has been adopted by the Central Bedfordshire Shadow Council ("the authority") under Section 51 of the Local Government Act 2000 and defines the standards of conduct which will be required of all Members of the authority in the carrying out of their duties, and in their relationships with the Council and the Council's officers.

All Councillors are required on accepting office to declare that they will observe the Code.

The Code represents the standard against which the public, their fellow Councillors, the Standards Board and the authority's Standards Committee will judge their conduct. The local government ombudsman may also regard a breach of the Code as incompatible with good administration, and may make a finding of maladministration by the authority in these circumstances.

Preamble

The ten general principles (set out below) form the basis of the Members' Code of Conduct but do not form part of it:-

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honest and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to Uphold the Law

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

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership and by example and should act in a way that secures or preserves public confidence.

MEMBERS' CODE OF CONDUCT

Part 1

General provisions

Introduction and interpretation

1. (1) This Code applies to **you** as a member of the authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:-

"meeting" means any meeting of:-

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

Scope

- (2)(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:-
 - (a) conduct the business of the authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of the authority,and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of the authority:-
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

- 3(1) You must treat others with respect.
- (2) You must not:-
 - (a) do anything which may cause the authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006;
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be:-
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,
 in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

- 4** You must not:-
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:-
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute.
- 6** You:-
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of the authority:-
 - (i) act in accordance with the authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7(1)** When reaching decisions on any matter you must have regard to any relevant advice provided to you by:-
- (a) the authority's chief finance officer; or
 - (b) the authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

Part 2

Interests

Personal interests

- 8(1) You have a personal interest in any business of your authority where either:-

- (a) it relates to or is likely to affect:-

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

- (ii) any body:-

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

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

- (iii) any employment or business carried on by you;

- (iv) any person or body who employs or has appointed you;

- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

- (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- (2) In sub-paragraph (1)(b), a relevant person is:-
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

- 9(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of the authority and you attend a meeting of the authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of the authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of the authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

- 10(1)** Subject to sub-paragraph (2), where you have a personal interest in any business of the authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2)** You do not have a prejudicial interest in any business of the authority where that business:-
- (a)** does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b)** does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c)** relates to the functions of the authority in respect of:-
 - (i)** housing, where you are a tenant of the authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii)** school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii)** statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv)** an allowance, payment or indemnity given to members;
 - (v)** any ceremonial honour given to members; and
 - (vi)** setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

- 11** You also have a prejudicial interest in any business before an overview and scrutiny committee of the authority (or of a sub-committee of such a committee) where:-

- (a) that business relates to a decision made (whether implemented or not) or action taken by the authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the authority:-

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:-
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from the authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of the authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of the authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

13(1) Subject to paragraph 14, you must, within 28 days of:-

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

register in the authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to the authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to the authority's monitoring officer.

Sensitive information

14(1) Where you consider that the information relating to any of your personal interests is sensitive information, and the authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify the authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Protocol for Member/ Officer Relations

PROTOCOL FOR MEMBER/OFFICER RELATIONS

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PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. INTRODUCTION

- (a) The purpose of this protocol is to set out the relative roles, responsibilities and rights of Members and Officers in their dealings with one another and to promote a greater understanding of each other's rights and responsibilities. Good partnership relations between Officers and Members will ensure the smooth running of the Council. This Protocol also sets out the basic ground rules for the proper conduct and administration of the Council's business. It cannot and does not seek to cover every circumstance.
- (b) Much of the protocol is simply a codification of good practice and convention. In some respects however, it seeks to promote greater clarity and certainty by pulling together into one document the rules and conventions which impact on the Member/Officer relationship. In doing this, the protocol aims to help maintain a proper balance within the partnership between Members and Officers which is necessary for effective governance.
- (c) In getting the Councillors'/Officers' relationship right, the following principles should be borne in mind:-
- both should aim to develop a relationship based on mutual respect and trust by way of open and honest communication.
 - the organisation through its Members and Officers, should eradicate any "blame culture".
 - Councillors and officers should *adhere to* the principles of the Members Code of Conduct.
 - Councillors, advised by Officers, should identify aims, objectives, targets and priorities.
 - Officers should provide clear advice and, where possible, offer alternative options where further guidance is required.
 - Councillors and Officers should work together to deliver *and monitor* the approved policies of the Council.
 - the supervision and direction of employees is the sole responsibility of management.

- (d) For the majority of Members, their direct contact with staff is likely to be with the Interim Head of Staff, Interim Monitoring Officer, Interim Chief Finance Officer, Members' Services Staff and Committee Administrators. There will be circumstances where Members will have contact with other staff (eg Social Services officers, and planning officers). Such encounters are likely to take place outside the Shadow Authority's formal decision making structures, and it is in this more informal arena that there is scope for confusion about roles, responsibilities and lines of accountability. Whilst in such contexts it is to be expected that Members and staff should feel free to engage in dialogue and debate, it is important that both Members and staff remember the parameters of their respective roles in order to avoid any misunderstandings about management responsibilities. When dealing with other staff in their capacity as a Councillor, Members should clearly identify themselves as a Member of the Council and the basis on which they are seeking assistance or making enquiries. This will enable the Officer concerned to provide the best service they can to the Member and, if necessary, to refer them to another appropriate colleague.
- (e) With regard to the day to day operational relationship, Members will have access to relevant Council Officers at all levels to pursue their legitimate business as Members, recognising that, wherever possible, such contact should be by pre-arrangement in order that the Officer concerned is able to give the best service they can to the Member.

(Note: References in this protocol to "Committees" are taken to include the Executive, Panels and other Member Groups established by the Council as part of its decision making structures.)

2. THE NEED FOR MUTUAL RESPECT

- (a) Members are required by law and by the Council's Procedure Rules to observe the Code of Conduct for Councillors. This provides:-

"A Member must not do anything which compromises or which is likely to compromise the impartiality of an employee of the authority."

Furthermore, Item 7 of the General Principles Governing the Conduct of Members following the report of Lord Nolan on Standards in Public Life 1997 states as follows:-

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

- (b) The Council's Officer Code of Conduct includes the following paragraph:-

Employees serve the Authority as a whole. It follows that they must serve all Members and not just those of a controlling group, and must ensure that the individual rights of all Members are respected.

- (c) It is important that both Members and Officers should observe reasonable standards of courtesy, recognise each other's position and not seek to take unfair advantage of their own position.

3. THE ROLES, RESPONSIBILITIES AND RIGHTS OF MEMBERS

- (a) ALL MEMBERS

(i) All Members of the Council, irrespective of their membership of a political party or political affiliation, have the same basic rights and responsibilities.

(ii) Councillors are required to:-

- observe the Code of Conduct for Councillors;
- comply with the Council's Procedure Rules;
- ensure that any facilities provided by the Council for Members' use in undertaking their duties are used strictly for those duties and for no other purpose; and
- comply with all relevant statutory provisions.

(iii) Councillors have a personal responsibility to ensure that they have proper advice. If a Member is in any doubt in terms of law, any Council Code of Conduct, Procedure Rules, general propriety issue or question over possible conflict of interest etc, then he or she should consult the Interim Monitoring Officer. Any final decision in respect of a possible conflict of interests remains with the individual Member concerned.

- (iv) (a) When acting collectively in meetings of the Council, Executive or a Committee:-

Members:-

are responsible for setting the Council's Budget and Policy Framework and for establishing corporate aims and objectives;

are responsible for the development of policy proposals, receiving professional advice as necessary from Officers;

determine which policy options will be pursued; and

are responsible for the monitoring of the implementation of policy and for the monitoring of the Council's performance against the established corporate aims and objectives and performance indicator;

- (b) On a more general basis:-

Members:-

represent the local community as the elected representatives of the community;

have a responsibility to serve the whole of the Authority's area with particular responsibility towards the constituents of the Ward which they represent. Members' duties to their constituents lie to all their constituents, including those who may not have voted for them and those who do not have a vote;

have the right to professional advice from Officers;

must acknowledge that Officers may only act in accordance with or implement decisions of the Executive or a properly constituted Committee or of Full Council (unless powers have been formally delegated to the Officer concerned) and that Officers have no authority to commit staff time or other resources to unplanned or unprogrammed work or to reprioritise work already approved by the Executive or Committee or Full Council;

should respect the confidentiality of any advice provided by Officers to individual Group meetings;

should acknowledge and respect the need for Officers, from time to time, to give advice to Members that is unpopular and unwelcome or to warn Members of the consequences of action;

should not raise any issue about the conduct of Officers at a Committee meeting as the Officer concerned will have no real opportunity to respond. Members should take such issues up with the Interim Head of Staff; and

should at all times maintain confidentiality when dealing with Human Resources issues involving identified staff.

(v) All Members of the Council have the right to:-

receive hard copies in acceptable format of agendas, minutes and reports for the Executive and any of the Council's Committees, Sub-Committees and Panels, including, on request, those of which they are not a Member; (Copies of such documents will be also accessible to all Members via the intranet);

receive other information about the Council's business on a "need to know" basis and, in accordance with the Constitution, to inspect and, where available, have copies of documents held by the Council provided to them so long as they do not have a professional, personal or prejudicial interest in the matter concerned and subject to the right of the Interim Monitoring Officer to withhold documents containing certain categories of confidential or exempt information;

be consulted in advance in respect of key decisions having a significant or permanent impact on their Ward;

obtain advice and information on Council business from the Interim Monitoring Officer;

receive such general support services as the Council may from time to time approve;

receive within 10 working days a reply to a letter, 3 days for e:mail or telephone enquiry relating to Council business or where it is not possible to provide a response within that timescale, an indication of when a response can be provided;

attend Council meetings and meetings of the Executive, Panels, Committees and Sub-Committees to which Members are appointed by their political group and to take part in the proceedings of those meetings;

attend meetings of the Executive, Panels, Committees and Sub-Committees to which they have not been appointed by their political group;

participate in the process of policy formulation through Council, Executive, Panel, Committee and Sub-Committee meetings.

And, under the Council's Procedure Rules, also have the following rights:-

to submit notices of motion to meetings of the Full Council;

to ask the Leader, a Portfolio Holder or any Committee Chairman, a question relating to:-

- an issue over which the Council has a power or duty;
- a recommendation of a forum which is before the Council for decision; or

to have the way in which they vote on a particular matter recorded in the Minutes of the relevant meeting;

(b) COMMITTEE CHAIRMEN

(i) The Executive, and each Panel, Committee or Sub-Committee established by the Council will have a Chairman.

(ii) It is the role of the Chairman to:-

control the conduct of business at meetings;

steer a meeting towards constructive debate and the reaching of clear decisions;

ensure compliance with the Council's Procedure Rules by the meeting of which he/she is Chairman;

put recommendations to the Council on behalf of the Executive or Committee;

act as a focus and sounding board for the Executive, Panel or Committee between meetings;

represent the Council at formal functions relating to the work of the Executive, Panel or Committee;

make statements or to be interviewed by the media in relation to the work of the Committee in appropriate cases in consultation with the designated officers;

be consulted on matters by Officers between meetings and to express views to Officers where Officers are seeking such views prior to taking decisions on matters delegated to them after consulting the Chairmen.

- (iii) In addition to the general rights that they share with all Members, Committee Chairmen also have the right to:-

briefings about the issues to be considered at forthcoming meetings of the Committee they chair;

be advised of any difficulties or delays in implementing decisions taken by or policies governed by the work of the Committee that they chair, and the reasons for those difficulties or delays, and to be consulted by Officers on the options for overcoming those difficulties.

(c) EXECUTIVE LEADER, DEPUTY LEADER AND PORTFOLIO HOLDERS

The Executive Leader (Chairman of Executive), Deputy Leader, Vice-Chairman of Executive or Portfolio Holders as appropriate will be consulted on matters by Officers between meetings and in order that Officers can seek their views prior to taking decisions relating to matters delegated to them, after consultation with the Leader, Deputy Leader, the Vice-Chairman of the Executive and/or relevant Portfolio Holder. The role of the Portfolio Holder is to prepare and recommend proposals to the Executive after discussion, and having taken advice from Officers. A Portfolio Holder has no power to take decisions on his/her own except as specifically provided for in the Constitution.

(d) POLITICAL GROUP LEADERS

Definition of a Political Group

- (i) The definition of a Political Group is contained in legislation. Any two or more Councillors notifying the Interim Monitoring Officer in the appropriate form will be considered a political group for the purpose of seat allocation.
- (ii) Each Political Group represented on the Council must have a Leader and must notify the Interim Monitoring Officer of the appointment of its Leader and subsequent change to that appointment.

- (iii) Much of the role of a Political Group Leader is political and therefore not the subject of this protocol. Those aspects of the role of Political Group Leader which relate to the Council's administrative and decision making processes are covered by this protocol as set out below.
- (iv) Each Political Group Leader will represent the Political Group of which he/she is Leader on the Council.
- (v) Each Political Group Leader (or the Deputy Leader or Vice-Chairman of the Executive in the event of the Leader being absent or unable to act) will be responsible for the expression of that Political Group's wishes where such wishes need formally to be sought by Officers.

4. THE ROLE, RESPONSIBILITIES AND RIGHTS OF OFFICERS

(a) GENERAL

- (i) Officers are responsible for implementing the Council's policies and for all aspects of divisional and staff operational management.

- (ii) They:-

are responsible for ensuring that Members receive appropriate professional advice;

are accountable to the Council as a whole and not directly to the community;

have a responsibility to serve the Council as a whole and not any particular Political Party, Political Group or individual Member;

must acknowledge the rights and responsibilities of Members;

must only act in accordance with the decisions of the Council, or of the Executive, or Committees or Sub-Committees, or in accordance with powers delegated to them under the Council's Scheme of Delegation to Officers;

must not exceed their authority to pursue policies or projects that have not been approved by or which have been rejected by Members;

are responsible for the appointment of staff, with the exception of the Interim Head of Staff, Interim Monitoring Officer and Interim Chief Finance Officer.

- (iii) Some Officers also have independent statutory responsibilities. These Officers, who are termed “Statutory Officers” under the legislation are:-

Interim Head of Staff	The Interim Head of Staff is responsible for oversight of the Council’s staffing structures and establishment, with authority over all the Council’s Officers
Interim Chief Finance Officer (Section 151 Officer)	The Interim Chief Finance Officer is responsible for ensuring that the Council conducts its financial affairs properly and in accordance with the law
Interim Monitoring Officer	The Interim Monitoring Officer is responsible for ensuring that the Council’s activities and decisions are lawful

(b) OFFICER ADVICE TO POLITICAL GROUPS

- (i) The law recognises and provides for Political Groups and it is common practice for Political Groups to give preliminary consideration to matters before they are considered by the Executive or relevant Council Committee, often at an early stage in policy development.
- (ii) It is not improper for Officers to advise Political Groups provided that the rules set out below are followed.
- (iii) Officer advice, must only relate to Council business. Officers must not be involved in advising on party or political issues. Officers should not therefore be invited to attend or give presentations to Political Group meetings at which party political business is to be discussed.
- (iv) Political Group meetings are not part of the Council’s decision making structure and they may not make decisions on behalf of the Council. Views expressed or conclusions reached at such meetings are not Council decisions and the Officers have no authority to act on them.

- (v) Where Officers provide information to or advise one or more Political Group meetings, this cannot be in substitution for providing all necessary information and advice to the Executive or relevant Committee. It is the Officer's duty to provide this advice to the Executive or Committee irrespective of whether the matter has been discussed previously at a Political Group meeting at which advice has been given. In circumstances where the advice provided by an Officer to a Political Group meeting is preliminary advice and may be subject to change, the Officer should make this clear and the Group should acknowledge that the advice provided may be subject to change.
 - (vi) Officers will normally only attend and give advice at meetings of political groups at which Councillors and/or fellow officers of the Council are present. In exceptional cases, subject to consultation with the Interim Head of Staff, it may be possible for officers to attend political group meetings at which third parties are present, subject to appropriate safeguards.
 - (vii) Officers must respect the confidentiality of any discussion which takes place at Political Group meetings. They must not relay the content of any such discussions to any other Political Group or to any member of any other Political Group. This principle also applies to requests made by Group Representatives for advice and assistance in preparing motions or proposals for Committee and Council meetings.
- (c) OFFICER ADVICE TO THE EXECUTIVE AND COMMITTEES
- (i) It is the role of Officers to advise professionally and to ensure that the Executive and Committees receive proper professional advice. In many cases, failure to do so could leave the Council vulnerable to legal or other action (eg the Ombudsman) and lead to the Officer concerned experiencing difficulties with his/her professional institute.
 - (ii) Members should acknowledge the role and duty of Officers to give unbiased and politically neutral professional advice.
 - (iii) It may occasionally be the duty of Officers to give advice to Members that is unpopular and unwelcome, or to warn Members of the consequences of action, and Members should respect this.

- (iv) It is the role of Members to take policy decisions based on the professional advice of Officers and other information which is available to Members. Officers must respect this role and that policy decisions made by Members may not always match the advice which the Officers have given, provided such decisions are lawful.
- (v) Any advice Officers give to the Leader or Portfolio Holders or Chairman of a Committee prior to a Committee meeting cannot be given in substitution for proper advice to the Committee.
- (vi) Officers who have concerns about the conduct of Members at a Committee or other meeting should raise the issue with the Interim Monitoring Officer who, if appropriate, will take the matter up with the Interim Head of Staff.

5. **STAFF MANAGEMENT**

- (a) Officers are responsible within the resources available to them for the management of staff employed by the Council and for the way in which work is organised and undertaken.
- (b) Formal opportunities will exist for Members of the Council to provide structured feedback on the performance of the Senior Management of the Council.
- (c) On a day to day basis, any Member who is concerned about the way in which an individual Officer is performing in their job should raise the matter promptly with the Interim Head of Staff. In all cases the relevant Group Leader shall be advised of the complaint by the Member involved.
- (d) Members should not raise concerns about performance directly with the member of staff concerned or place them under undue pressure to carry out their work in a particular way, or apply particular priorities. This could result in the impression that the concerns expressed have not been raised as constructive feedback and could undermine the professional relationship required between Members and Officers.
- (e) Any Member who has expressed some dissatisfaction with the performance of an Officer in accordance with an approved process should not be a Member of any Investigating or Appeals Committee convened to deal with a matter in relation to that Officer.

6. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

Support services are provided to Members to assist them in discharging their role as Members of the Council.

When using, or authorising the use by others, of the resources of the Council, a Member must, in accordance with paragraph 5 of the Code of Conduct for Councillors:-

- (i) act in accordance with the Authority's requirements; and
- (ii) ensure that such resources are not used for political purposes, unless that use could reasonably be regarded as likely to facilitate or be conducive to, the discharge of the functions of the Authority or of the office to which the Member has been elected or appointed.

7. BREACHES OF THE PROTOCOL

Any breaches by a Member or Officer which are against the provisions of this protocol shall be raised and dealt with in accordance with the recognised relevant policies and/or procedures of the Council.

Any breaches of the Protocol relating to the behaviour of Members or Officers may ultimately be the subject of any of the following:-

- (1) Grievance or disciplinary procedures
- (2) Referral by the Interim Monitoring Officer to the Standards Committee
- (3) Referral to the Standards Board for England for adjudication which could result in disqualification for up to 5 years, suspension for up to one year or the Standards Board for England, if they felt it appropriate, could pass the matter back for local determination by the Standards Committee who could

- suspend for up to 3 months,
 - request training be undertaken
 - require a written apology be submitted

More general concerns about the relationships between Councillors and Officers or perceived breaches of principles embodied in this Protocol can be discussed with the Interim Monitoring Officer.

Any Member or Officer who is minded to complain to the Standards Board about a Councillor is encouraged to discuss the matter first with the Interim Monitoring Officer in order to establish the processes involved in respect of such a complaint.