

Financial Regulations and Scheme of Delegation for Financial Management

Overview of proposed changes

Section 1 - Introduction

Context

An additional sentence has been added to paragraph **1.1** to clarify that officers and members are authorised to make decisions in accordance with the Financial Regulations, but are not authorised to make a decision which is contrary to any provision in the Constitution. This clarifies the relationship with the rest of the Constitution. It has also enabled the removal of a large amount of overlap between the Financial Regulations and the Scheme of Delegation and significantly shorten the overall document.

Scope of the Regulations

The Financial Regulations previously stated, in paragraph **1.5**, that schools will not override the Council’s own financial regulations. As schools are not expected to have access to, or oversight of, the Council’s Financial Regulations, the wording has been amended to clarify that the Council’s officers will not provide advice or guidance to schools that is contrary to the Council’s own financial regulations.

Section 2 - Financial roles and responsibilities

Section **2** of the Financial Regulations explains the various financial roles and responsibilities of Members and Officers. There have been no changes to roles and responsibilities: however, as Financial Regulations previously replicated content within the Constitution, some of the narrative has been simplified or removed, and cross references to the Constitution are now included.

Paragraph **2.7** previously stated that Executive Directors have responsibility for signing contracts on behalf of the Council. This sentence has been removed, as the signing of contracts is now addressed in Section **8** of the Financial Regulations related to Income and Expenditure.

Section 3 - Financial Planning

Corporate Policy Framework

Paragraph **3.2** of the Financial Regulations, on the Corporate Policy Framework, has been updated to reflect the introduction of the Corporate Outcomes Framework and Commissioning Strategies which now form key elements of the Council’s strategic and resource planning framework.

Format of the budget

The Financial Regulations previously stated that the general format of the budget is proposed by Cabinet Members on the advice of the Section 151 Officer, is then approved by Council and is required to comply with all legal requirements. As these requirements are already implied in paragraph 3.3.3 on budget preparation, paragraph 3.3.4 has been simplified to state that the format of the budget determines the level of detail to which financial control and management will be exercised.

Maintenance of Reserves

Clarification has been provided, in paragraph 3.3.5 of the Financial Regulations, as to why the Council holds reserves.

This paragraph has also been updated to make it explicit that the creation of new reserves, and increases to existing reserves, are subject to approval by the Cabinet Member for Finance (upon the advice of the Section 151 Officer). The Cabinet Member for Finance will continue to be the person able to authorise the release of money from reserves.

Capital expenditure

The narrative description provided in paragraph 3.4.1 of what constitutes capital expenditure has been updated, but this has little impact in reality.

Paragraph 3.4.2 has been updated to state that the Cabinet Member for Finance will manage the preparation of the Capital Programme on behalf of the Council (previously Financial Regulations stated that Cabinet would do this).

Paragraph 3.4.2 also confirms that each scheme added to the capital programme will be allocated a 'start date' for planning purposes, an overall scheme approval and an annual payments guideline.

Leases

Paragraph 3.5 explains that cars secured through the Car Provision Scheme are now subject to approval by an Executive Director or a Director (previously, only Executive Directors could approve these).

Trading activities

Section 3.6 has been updated to provide greater clarity around the definition and framework for trading activities including that:

- services are only able to operate on a trading basis with Cabinet approval;
- trading activities must maintain a trading account into which all costs related to the provision of services are charged and all income due for services provided is credited; and
- trading activities are required to balance their budgets by generating sufficient income to cover the full costs of service provision.

These amendments do not fundamentally change the requirements, but the previous wording caused some confusion regarding intent.

Treasury management, Prudential Indicators and MRP Policy

Previously, paragraph 3.7 stated that the Executive Director for Corporate and Customer Services would propose an annual Treasury Management Strategy, Prudential Indicators and an MRP policy. The Financial Regulations have now been updated to state that these are responsibilities of the Cabinet Member for Finance, in conjunction with the Section 151 Officer.

Income and charging policy

Paragraph 3.9 has been updated to ensure consistency with the recently adopted Fees and Charges Policy which stipulates that a charging policy will be put in place for the supply of goods and services where charges may be lawfully applied and the forecast of the recoverable amount is **£250,000** or more per annum.

Section 4 - Financial Management

Revenue budget monitoring and control

Minor amendments have been made to the narrative in paragraph 4.3.2, including that:

- Executive Directors are authorised to incur expenditure in accordance with the approved budget, subject to the limits in the Constitution and the scheme of delegation to officers (*the previous wording said that they were authorised to incur expenditure in accordance with 'the estimates that make up the budget'*).
- Executive Directors must secure value for money (*as measured by cost efficiency and output effectiveness*). The requirement to secure value for money was not previously stated within the section of the Financial Regulations related to Financial Management, although was previously referenced elsewhere.
- Portfolio budgets will be managed within the agreed cash limit budget, and Executive Directors, in consultation with the relevant Cabinet Member(s), will use the virement scheme to achieve this by moving the under spend to the area of over spend. Where more specific management actions are required to save funds, then this needs to be clearly set out in a budget recovery plan which can be monitored to ensure the safe delivery of the budget at both portfolio and policy budget level.
- Executive Directors, the Section 151 Officer and/or Cabinet Members will determine when budget recovery plans need to be prepared to explain the actions being undertaken to mitigate a projected over spend. Currently a recovery plan must be prepared irrespective of the surrounding circumstances, so the proposed change is intended to allow some discretion about when a recovery plan is required.

Scheme of Virement

Clarification has been provided, in paragraph 4.3.3, that virements are not permitted between revenue and capital budgets.

Currently, the Financial Regulations enable Executive Directors to approve virements of up to **£1m**, following consultation with the Service Cabinet Member(s). The requirement to consult with Cabinet Members can cause confusion and it is not always considered necessary. It is therefore now proposed to remove the requirement to consult with Cabinet Members for virements of up to **£500,000**, even if those virements are being actioned to effect a change in policy or priorities. Virements in excess of **£500,000** will continue to be subject to Member approval.

Finally, clarification has been provided as to why the scheme of virement does not apply to trading activities.

Supplementary estimates

Clarification has been provided in paragraph **4.3.4** that supplementary estimates include requests for additional funds from any of the following:

- General Balance;
- an earmarked revenue reserve; or
- Emergency Contingency.

Financial Regulations have been updated to state that supplementary estimates will be subject to approval by the Cabinet Member for Finance, in consultation with the Section 151 Officer.

Financial Regulations now also allow services to re-profile supplementary estimates of up to **£500,000** between financial years without further approval, provided that the originally agreed amount is not exceeded and the funds are still to be applied for the intended purpose. Any proposal to re-profile a supplementary estimate in excess of **£500,000** will require the approval of the Cabinet Member for Finance.

Treatment of year end balances

Clarification has been provided in paragraph **4.3.5** that the 'carry forward' scheme is subject to agreement by the Cabinet Member for Finance, in consultation with the Section 151 Officer, and that the Section 151 Officer administers the scheme on behalf of the Cabinet Member. The previous wording implied that the Executive Director for Corporate and Customer Services was responsible for agreeing the 'carry forward' scheme in consultation with the Cabinet Member for Finance.

As the 'carry forward' scheme is usually applied at Functional Leadership Team level, the Financial Regulations have been amended to remove reference to the scheme being applied at 'portfolio' level.

Capital monitoring and control

Section **4.4** has been re-written to provide greater clarity and flexibility to Executive Directors with regard to managing capital projects in-year.

The Financial Regulations clarify that Executive Directors have approval to proceed with projects that have both a 'start date' in the current or previous year

and adequate scheme and payments approval. This is subject to the Constitution which says that key decisions have to be taken by Councillors.

Financial Regulations clarify that under spends against scheme or block approvals can only be applied to offset over spends. Previously, it was only possible to realign payment approvals on this basis with Cabinet's approval.

The approvals required to realign payment approvals have been updated and now cover the re-profiling of payment guidelines for schemes with approval to 'start' in the current or previous year. This was previously something that could only be approved by Cabinet.

The Cabinet Member for Finance was previously only able to add schemes of **£1m** to the Capital programme, but it is proposed to align this limit with the general financial threshold for Cabinet referrals, which is **£5m**.

Section 5 - Accounting Records and Financial Systems

Paragraph **5.3** has been updated to clarify that it is the data processed by computer systems that will be registered in accordance with data protection legislation and not, as currently implied within Financial Regulations, the systems themselves.

Section 6 - Risk Management and Internal Control

Insurance

The approval required to settle insurance claims has been lifted from Scheme of Delegation for Financial Management and into Financial Regulations. The thresholds for approval have also been amended to reflect a change in the structure and processes relating to the settlement of claims.

Section 7 - Control of resource

Property transactions

Paragraph **7.1.4** sets out the approval required for various types of property transaction.

Previously, the Director with responsibility for Property Management was only able to approve property transactions up to a threshold of **£250,000**, and the Executive Director was only able to approve transactions up to **£500,000**. All transactions in excess of **£500,000** were subject to Member approval. This has been revised.

Clarification has also been provided that the financial thresholds for approving property transactions apply to the open market value of the interest in the land or property reasonably foreseeable at the date of the approval, and not to the actual money involved.

Previously, all property transactions with a value in excess of **£500,000** were subject to the approval of the Cabinet Member for Finance. It is now proposed that the majority of property decisions will be taken by the Cabinet Member with responsibility for Property Management. However, it is proposed that the

approval of the Cabinet Member for Finance will still be required (*after consulting the Cabinet Member with responsibility for Property*) if:

- it is proposed to dispose of the freehold (or a leasehold interest with at least seven years unexpired) in a property at a value which is below market value and/or the book value in the previous year's Balance Sheet; and
- the amount to be realised from the sale of part of an asset will reduce the book value of the remaining asset by more than is being realised.

Consumable stocks and stores

Financial Regulations currently permit Executive Directors to approve the write off of consumable stocks and stores up to a threshold of £50,000. It is now proposed (in paragraph 7.2) to introduce some intermediary levels below this.

The approvals required for writing off consumable stocks and stores in excess of **£50,000** remain unchanged.

Staffing

Explicit reference to 'establishment control' has been removed from paragraph 7.4, but the requirement for Executive Directors to comply with establishment and financial controls remains, as does the requirement for them to ensure that staffing budgets are not exceeded.

Intellectual Property

Paragraph 7.5 has been updated to clarify that intellectual property which has some commercial value to the Council should be referred to the relevant Executive Director(s).

Section 8 - Income and Expenditure

Charging policies

A reference was made to charging policies in Section 8.1 of the Financial Regulations. However, as this replicated paragraph 3.9 it has now been removed.

Writing off debts

Section 8.1 currently permits Executive Directors to approve the write off of debts up to a threshold of **£50,000**. It is now proposed to introduce some intermediary levels below this.

The approvals required for writing off debts in excess of **£50,000** remain unchanged.

It is no longer proposed that write-offs of debt of less than **£50,000** will be reported to the Service Cabinet Member.

Ordering works, goods and services

Sections **8.2** and **8.3** (previously entitled 'Ordering and paying for work, goods and services' and 'Contracts') have been re-written.

The new section **8.2** (entitled 'Purchasing and Procurement') now explains that sourcing activity depends upon whether the work, goods or services are available via one of the Council's corporate mandated contracts and, if not, the factors that will be taken into account to determine the procurement approach.

This section also references the Council's new Procurement Rules and explains that there is no requirement for competition for very low risk procurements (currently those up to **£10,000**) and that these purchases can be made using an ECC purchase card, the Council's Purchase-to-Pay system or its Electronic Payment Tool. All other work, goods and services must be procured following a competitive process that reflects the relative risks of the procurement (as laid out within the Council's Procurement Rules).

The new section **8.3** (entitled 'Ordering and Paying for work, goods and services') sets out the thresholds for approval of orders and invoices.

Contracts with a value of under **£1m** may be signed by:

- a. A person who is authorised to issue an order for that contract; or
- b. The **Monitoring Officer** or **Section 151 Officer** or the **Director for Essex Legal Services** (or a person authorised by any of them).

Contracts with a value of more than **£1m** must be in writing and must be signed in accordance with the Constitution (i.e. by an Executive Director or the Chief Executive or be affixed under the common seal of the Council).

Other payments

A new paragraph (paragraph **8.4**) has also been added, to set out the approval required for payments other than those arising from purchasing and procurement.

Payments to Employees and Members

Paragraph **8.5.1** (*previously paragraph 8.4.1*) related to salaries has been simplified, to focus on the arrangements for paying staff, as guidance regarding staff appointments etc. is set out within the HR policy framework.

Section 9 - External arrangements

Paragraph **9.4.3**, related to the documenting and recording of contracts with third parties, has been updated to clarify that a written agreement must be put in place between the Council and the third party that details the services to be provided, over what period and at what price. Further, that this will be signed by both parties.

Section 10 - Financial Limits

Section **10** brings together all of the financial limits contained throughout the rest of the document. This section has therefore been updated to reflect the changes referred to in the previous paragraphs.

Overview of changes to the Scheme of Delegation for Financial Management

Much of the content of the Scheme of Delegation for Financial Management currently duplicates information in the Financial Regulations and some of the items were not delegations. The Scheme of Delegation for Financial Management has therefore been simplified to remove this duplication. This has led to a simplification of the document, which reduces the risk of inconsistency.