

# **GREAT LINFORD PARISH COUNCIL**

## **FINANCIAL REGULATIONS**

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**Document History:**

<b>Version</b>	<b>Description of Changes</b>	<b>Date Effective</b>
2017	<i>No changes proposed</i>	April 2017
2016	<i>These regulations were reproduced after a model financial regulation was agreed by NALC and SLCC in January 2016.</i>	March 2016
May 2017	<i>No changes</i>	
March 2018	<i>Separate report provides details of change amendments and deletions</i>	March 2018
March 2019	<i>Main amendments due to separation of RFO and Clerk role.</i>	
March 2020	<i>These regulations were reproduced after a model financial regulation was agreed by NALC and SLCC</i>	
March 2021	<i>Changes to Committees</i>	

Note to Council: GLPC have appointed a Parish Manager who is the “proper officer” and clerk. There is also a separate position of Responsible Financial Officer.

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## 1. GENERAL

- 1.1. These financial regulations govern the conduct of financial management by the council and may only be amended or varied by resolution of the council. Financial regulations are one of the council's three governing policy documents providing procedural guidance for members and officers. Financial regulations must be observed in conjunction with the council's standing orders<sup>1</sup> and any individual financial regulations relating to contracts.
- 1.2. The council is responsible in law for ensuring that its financial management is adequate and effective, and that the council has a sound system of internal control which facilitates the effective exercise of the council's functions, including arrangements for the management of risk.
- 1.3. The council's accounting control systems must include measures:
  - 1.3.1 for the timely production of accounts.
  - 1.3.2 that provide for the safe and efficient safeguarding of public.
  - 1.3.3 to prevent and detect inaccuracy and fraud; and
  - 1.3.4 identifying the duties of officers.
- 1.4. These financial regulations demonstrate how the council meets these responsibilities and requirements.
- 1.5. At least once a year, prior to approving the Annual Governance Statement, the council must review the effectiveness of its system of internal control, which shall be in accordance with proper practices.
- 1.6. Deliberate or wilful breach of these Regulations by an employee may give rise to disciplinary proceedings.
- 1.7. Members of Council are expected to follow the instructions within these Regulations and not to entice employees to breach them. Failure to follow instructions within these Regulations brings the office of councillor into disrepute.
- 1.8. The Responsible Financial Officer (RFO) holds a statutory office to be appointed by the council. An RFO has been appointed by this council to apply the regulations accordingly. Clerk provides support in the RFOs absence.

- 1.9. The RFO:
  1. acts under the policy direction of the council.
  2. administers the council's financial affairs in accordance with all Acts, Regulations and proper practices.
  3. determines on behalf of the council its accounting records and accounting control systems.
  4. ensures the accounting control systems are observed.
  5. maintains the accounting records of the council up to date in accordance with proper practices.
  6. assists the council to secure economy, efficiency and effectiveness in the use of its resources; and
  7. produces financial management information as required by the council.
- 1.10. The accounting records determined by the RFO shall be sufficient to show and explain the council's transactions and to enable the RFO to ensure that any income and expenditure account and statement of balances, or record of receipts and payments and additional information, as the case may be, or management information prepared for the council from time to time comply with the Accounts and Audit Regulations.
- 1.11. The accounting records determined by the RFO shall contain:
  - 1.11.1 entries from day to day of all sums of money received and expended by the council and the matters to which the income and expenditure or receipts and payments account relate.
  - 1.11.2 a record of the assets and liabilities of the council; and
  - 1.11.3 wherever relevant, a record of the council's income and expenditure in relation to claims made, or to be made, for any contribution, grant or subsidy.
- 1.12. The accounting control systems determined by the RFO shall include:
  1. procedures to ensure that the financial transactions of the council are recorded as soon as reasonably practicable and as accurately and reasonably as possible.
  2. procedures to enable the prevention and detection of inaccuracies and fraud and the ability to reconstruct any lost records.
  3. identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers in relation to significant transactions.

4. procedures to ensure that uncollectable amounts, including any bad debts are not submitted to the council for approval to be written off except with the approval of the RFO and that the approvals are shown in the accounting records; and
  5. measures to ensure that risk is properly managed.
- 1.13. The council is not empowered by these Regulations or otherwise to delegate certain specified decisions. In particular the following shall be a matter for the full council only:
1. setting the final budget or the precept (council tax requirement).
  2. approving accounting statements.
  3. approving an annual governance statement.
  4. borrowing.
  5. writing off bad debts.
  6. declaring eligibility for the General Power of Competence; and
  7. addressing recommendations in any report from the internal or external auditors,
- 1.14. In addition, the council must:
- 1.14.1 determine and keep under regular review the bank mandate for all council bank accounts.
  - 1.14.2 approve a single commitment in excess of £5,000 and.
  - 1.14.3 in respect of the annual salary for any employee have regard to recommendations about annual salaries of employees made by the relevant Lead Cllr Resources and associated working group in accordance with its terms of reference.
- 1.15. In these financial regulations, references to the Accounts and Audit Regulations or 'the regulations' shall mean the regulations issued under the provisions of section 27 of the Audit Commission Act 1998, or any superseding legislation, and then in force unless otherwise specified.

In these financial regulations the term 'proper practice' or 'proper practices' shall refer to guidance issued in *Governance and Accountability for Local Councils - a Practitioners' Guide (England)* issued by the Joint Practitioners Advisory Group (JPAG), available from the websites of NALC and the Society for Local Council Clerks (SLCC).

## **2. ACCOUNTING AND AUDIT (INTERNAL AND EXTERNAL)**

- 2.1. All accounting procedures and financial records of the council shall be determined by the RFO in accordance with the Accounts and Audit Regulations, appropriate guidance and proper practices.
- 2.2. The Lead Councillor for Finance, or other member of the Finance & Governance Working Group, will review the bank reconciliations produced by the RFO. The bank reconciliation should be signed and dated by the reviewer as evidence that it has been reviewed. The LCF shall report to the Council monthly that this has taken place. Checks completed should be noted to the council on a regular basis and at least quarterly.
- 2.3. The RFO shall complete the annual statement of accounts, annual report, and any related documents of the council contained in the Annual Return as soon as practicable after the end of the financial year and having certified the accounts shall submit them and report thereon to the council within the timescales set by the Accounts and Audit Regulations.
- 2.4. The council shall ensure that there is an adequate and effective system of internal audit of its accounting records, and of its system of internal control in accordance with proper practices. Any officer or member of the council shall make available such documents and records as appear to the council to be necessary for the audit and shall, as directed by the council, supply the RFO, internal auditor, or external auditor with such information and explanation as the council considers necessary for that purpose.
- 2.5. The internal auditor shall be appointed by and shall carry out the work in relation to internal controls required by the council in accordance with proper practices.
- 2.6. The internal auditor shall:
  1. be competent and independent of the financial operations of the council.
  2. report to council in writing, or in person, on a regular basis with a minimum of one annual written report during each financial year.
  3. to demonstrate competence, objectivity and independence, be free from any actual or perceived conflicts of interest, including those arising from family relationships; and
  4. have no involvement in the financial decision making, management or control of the council.
- 2.7. Internal or external auditors may not under any circumstances:
  1. perform any operational duties for the council.
  2. initiate or approve accounting transactions; or
  3. direct the activities of any council employee, except to the extent that such employees have been appropriately assigned to assist the internal auditor.

- 2.8. For the avoidance of doubt, in relation to internal audit the terms 'independent' and 'independence' shall have the same meaning as is described in proper practices.
- 2.9. The RFO shall make arrangements for the exercise of electors' rights in relation to the accounts including the opportunity to inspect the accounts, books, and vouchers and display or publish any notices and statements of account required by Audit Commission Act 1998, or any superseding legislation, and the Accounts and Audit Regulations.
- 2.10. The RFO shall, without undue delay, bring to the attention of all councillors any correspondence or report from internal or external auditors.

### **3. ANNUAL ESTIMATES (BUDGET) AND FORWARD PLANNING**

- 3.1. Each committee (if any) shall review its three-year forecast of revenue and capital receipts and payments. Having regard to the forecast, it shall thereafter formulate and submit proposals for the following financial year to the council not later than the end of October each year including any proposals for revising the forecast.
- 3.2. Finance and Governance Committee will be responsible for the production of a draft budget proposal to be presented at the November or December council meeting. This proposal will be derived from inputs such as (but not exclusively):
  1. Councils strategic plan and the financial elements thereof
  2. Working groups actions and activities that have financial implications
  3. RFO preparation of detailed estimates of all receipts and payments including the use of reserves and all sources of funding for the following financial year in the form of a budget to be considered by the relevant committee and the council.
- 3.3. In December and January, the council shall consider the proposed annual budget in relation to the council's three-year forecast of revenue and capital receipts and payments including recommendations for the use of reserves and sources of funding and update the forecast accordingly.
- 3.4. The council shall fix the precept (council tax requirement), and relevant basic amount of council tax to be levied for the ensuing financial year not later than the end of January. The RFO shall issue the precept to the billing authority and shall supply each member with a copy of the approved annual budget.
- 3.5. The approved annual budget shall form the basis of financial control for the ensuing year.
- 3.6. Before the start of budget period in September the Finance & Governance Committee will produce the 4-year Medium Term forecast budget.

#### **4. BUDGETARY CONTROL AND AUTHORITY TO SPEND**

- 4.1. Expenditure on revenue items may be authorised up to the amounts included for that class of expenditure in the approved budget. This authority is to be determined by:
1. the council for all items over £5,000.
  2. the Clerk, in conjunction with Chair of Council or Lead Cllr for Finance, for any items between £1,500 and £5,000. Or A duly delegated committee of the council for budgeted items between £1,500 and £5,000. This authority will be recorded in the minutes and an email trail between agreed parties kept as a record of agreement.
  3. the RFO will have delegated powers for budget expenditure items up to £1,500

All such items will be included and noted on the Monthly Financial report presented to council and approved by the council's signatories.

Contracts may not be disaggregated to avoid controls imposed by these regulations.

- 4.2. No expenditure may be authorised that will exceed the amount provided in the revenue budget for that class of expenditure other than by resolution of the council, or duly delegated committee. During the budget year and with the approval of council having considered fully the implications for public services, unspent and available amounts may be moved to other budget headings or to an earmarked reserve as appropriate ('virement').
- 4.3. Unspent provisions in the revenue or capital budgets for completed projects shall not be carried forward to a subsequent year.
- 4.4. The salary budgets are to be reviewed at least annually before the budget meeting for the following financial year and such review shall be evidenced by a hard copy schedule signed by the Parish Manager and the Chair of Council or Lead Cllr Resources. The RFO will inform committees / working groups of any changes impacting on their budget requirement for the coming year in good time.
- 4.5. In cases of extreme risk to the delivery of council services, the clerk may authorise revenue expenditure on behalf of the council which in the clerk's judgement it is necessary to carry out. Such expenditure includes repair, replacement or other work, whether there is any budgetary provision for the expenditure, subject to a limit of £5,000. The Clerk shall report such action to the Chair as soon as possible and to the council as soon as practicable thereafter.
- 4.6. No expenditure shall be authorised in relation to any capital project and no contract entered or tender accepted involving capital expenditure unless the council is satisfied that the necessary funds are available, and the requisite borrowing approval has been obtained.
- 4.7. All capital works shall be administered in accordance with the council's standing orders and financial regulations relating to contracts.

- 4.8. The RFO shall regularly provide the council with a statement of the receipts and payments to date under each head of the budgets within the Monthly report. Income and Expenditure reports are to be prepared at least at the end of each financial quarter, comparing actual expenditure to the appropriate date against that planned as shown in the budget, and shall show explanations of material variances. For this purpose, “material” shall be more than 15% of the budget at the cost centre level.
- 4.9. Changes in earmarked reserves shall be approved by council as part of the budgetary control process.

## **5. BANKING ARRANGEMENTS AND AUTHORISATION OF PAYMENTS**

- 5.1. The council's banking arrangements, including the bank mandate, shall be made by the RFO and approved by the council; banking arrangements may not be delegated to a committee. They shall be regularly reviewed for safety and efficiency.
- 5.2. The RFO shall prepare a schedule of payments requiring authorisation, forming part of the Agenda for the Meeting and, together with the relevant invoices, present the schedule to council or finance committee. The council / committee shall review the schedule for compliance and, having satisfied itself shall authorise payment by a resolution of the council or finance committee.

The approved schedule shall be initialled by two of the four bank signatories. A detailed list of all payments shall be disclosed within or as an attachment to the minutes of the meeting at which payment was authorised. Personal payments (including salaries, wages, expenses and any payment made in relation to the termination of a contract of employment) may be summarised to remove public access to any personal information.

- 5.3. All invoices for payment shall be examined, verified and initialled by the RFO to confirm that the work, goods or services to which each invoice relates has been received, carried out, examined and represents expenditure previously approved by the council. The Parish Clerk is to spot check at least 3 times a year.
- 5.4. The RFO shall ensure that invoices are checked for arithmetical accuracy and are posted in the nominal ledger to the appropriate expenditure heading. The RFO shall take all steps to pay all invoices submitted, and which are in order, at the next available council or Finance Committee meeting and within the supplier's terms of payment.
- 5.5. The Clerk and RFO shall have delegated authority to authorise the payment of items only in the following circumstances:
1. If a payment is necessary to avoid a charge to interest under the Late Payment of Commercial Debts (Interest) Act 1998, and the due date for payment is before the next scheduled Meeting of council, where the Clerk and RFO certify that there is no dispute or other reason to delay payment, provided that a list of such payments shall be submitted to the next appropriate meeting of council or Finance Committee.

2. An expenditure item authorised under 5.6 below (continuing contracts and obligations) provided that a list of such payments shall be submitted to the next appropriate meeting of council or finance committee; or
  3. Fund transfers within the councils banking arrangements up to the sum of £50,000, provided that a list of such payments shall be submitted to the next appropriate meeting of council or finance committee along with confirmation that there are no discrepancies between Bank Reconciliations and Bank Statements and Financial report.
- 5.6. For each financial year the RFO shall draw up a list of due payments which arise on a regular basis as the result of a continuing contract, statutory duty, or obligation (such as but not exclusively) Salaries, PAYE and NI, Pension Fund contributions and regular maintenance contracts and the like for which council or a duly authorised committee may authorise payment for the year provided that the requirements of regulation 4.1 (Budgetary Controls) are adhered to, provided also that a list of such payments shall be submitted to the next appropriate meeting of council or finance committee.
  - 5.7. A record of regular payments made under 5.6 above shall be drawn up and be checked by the internal scrutiny member each month they are authorised - thus controlling the risk of duplicated payments being authorised and / or made.
  - 5.8. All grant applications shall be subject to approval by resolution of the council.
  - 5.9. Members are subject to the Code of Conduct that has been adopted by the council and shall comply with the Code and Standing Orders when a decision to authorise or instruct payment is made in respect of a matter in which they have a disclosable pecuniary or other interest, unless a dispensation has been granted.
  - 5.10. The council will aim to rotate the duties of members in these Regulations so that onerous duties are shared out as evenly as possible over time.
  - 5.11. Any changes in the recorded details of suppliers, such as bank account records, shall be noted on the Monthly Financial report, checked by the RFO and confirmed by the Cllr (signatory) carrying out the monthly internal scrutiny.
  - 5.12. Any unrepresented cheques older than 6 months should be written off prior to year-end.

## **6. INSTRUCTIONS FOR THE MAKING OF PAYMENTS**

- 6.1. The council will make safe and efficient arrangements for the making of its payments.
- 6.2. Following authorisation under Financial Regulation 5 above, the council, or, if so delegated, the Clerk or RFO shall give instruction that a payment shall be made.
- 6.3. All payments shall be affected by cheque or other instructions to the council's bankers, or otherwise, in accordance with a resolution of the council.
- 6.4. Cheques or orders for payment drawn on the bank account in accordance with the schedule as presented to council shall be signed by two members of council, in

accordance with a resolution instructing that payment. A member who is a bank signatory, having a connection by family or business relationships with the beneficiary of a payment, should not, under normal circumstances, be a signatory to the payment in question.

- 6.5. Regardless of the method of payment e.g., cheque, direct debit, standing order or electronic payment, a list of all payments will be presented at the full council meeting. This financial report will list all the payments by type and if payment was required before the date of the Full Council meeting. Each payment will be supported by documented evidence of the details, this will be an invoice, or memo with relevant authorised signature. Two Cllrs will be required to check the financial report against the invoice payments and sign the financial report control sheet once their checks have been completed. With council agreement and resolution, the payments will be made the next day.
- 6.6. At the start of each financial year a payments schedule will be provided for council to agree, this will list the supplier and the method of payment and a resolution of the council made to confirm agreement of the payments and methods. Thus, council may make payments by:
  1. Variable direct debits for utilities or if there is a financial benefit to the council, i.e., discount etc. thus reducing the expenditure to the council.
  2. Standing orders payment for regular contractual payments.
  3. Electronic payment for regular contractual payments. The majority of regular or known (preferred contractors) contractor payments, long-standing contractors or suppliers, wages and HMRC salaries can be paid by electronic payment.
- 6.7. Cllrs signing cheques perform spot checks to ensure that details shown on the cheque or order for payment is the same as that on the counterfoil and the invoice or similar documentation. These spot checks require signatories to initial the cheque counterfoil.
- 6.8. Cheques or orders for payment shall not normally be presented for signature other than at a council or committee meeting. Any signatures/payments obtained away from such meetings shall be reported to the council at the next convenient meeting.
- 6.9. If thought appropriate by the council payment for certain items may be made by internet banking transfer provided evidence is retained showing which member approved the payment.
- 6.10. Where a computer requires use of a personal identification number (PIN) or other password(s), for access to the council's records on that computer, a note shall be made of the PIN and Passwords and shall be retained in the secure document folder in a sealed dated envelope. This envelope may not be opened other than in the presence of two other councillors. After the envelope has been opened, in any circumstances, the PIN and / or passwords shall be changed as soon as practicable. The fact that the sealed envelope has been opened, in whatever circumstances, shall

be reported to all members immediately and formally to the next available meeting of the council. This will not be required for a member's personal computer used only for remote authorisation of bank payments.

- 6.11. No employee or councillor shall disclose any PIN or password, relevant to the working of the council or its bank accounts, to any person.
- 6.12. Regular back-up copies of the records on any computer shall be made and shall be stored securely away from the computer in question, and preferably off site.
- 6.13. The council, and any members using computers for the council's financial business, shall ensure that anti-virus, anti-spyware and firewall software with automatic updates, together with a high level of security, is used.
- 6.14. Where internet banking arrangements are made with any bank, the RFO shall be appointed as the Service Administrator. The bank mandate approved by the council shall identify a number of councillors who will be authorised to approve transactions on those accounts. Where possible the bank mandate will be set up as dual authorisation where RFO can submit, Clerk can submit, view and authorise (but not authorise payments submitted by themselves) and Councillors view and authorise.
- 6.15. Access to any internet banking accounts will be directly to the access page (which may be saved under "favourites"), and not through a search engine or e-mail link. Remembered or saved passwords facilities must not be used on any computer used for council banking work. Breach of this Regulation will be treated as a very serious matter under these regulations.
- 6.16. When the RFO adds new beneficiaries, changes account details for suppliers, which are used for internet banking a written hard copy notification by the supplier is required. Authority to change the details must be brought to the attention of the Parish Manager who must check and sign the details. It should also be copied and sent to authorising Cllrs.
- 6.17. Any Debit Card issued for use will be specifically restricted to the Clerk or the RFO and will also be restricted to a single transaction maximum value of £500 unless authorised by council or finance committee in writing before any order is placed.
- 6.18. A pre-paid debit card may be issued to employees with varying limits. These limits will be set by the council or finance committee. Transactions and purchases made will be reported to the council in the Finance Report.
- 6.19. Any corporate credit card or trade card account opened by the council will be specifically restricted to use by the Clerk or the RFO and shall be subject to automatic payment in full at each month-end. Personal credit or debit cards of members or staff shall not be used under any circumstances.
- 6.20. The council will not maintain any form of cash float. All cash received must be banked intact. Any payments made in cash by the Clerk or RFO (for example for postage or minor stationery items) shall be refunded on a monthly basis,

## **7. PAYMENT OF SALARIES**

- 7.1. As an employer, the council shall decide to meet fully the statutory requirements placed on all employers by PAYE and National Insurance legislation. The payment of all salaries shall be made in accordance with payroll records and the rules of PAYE and National Insurance in operation at the time of payment, and salary rates shall be as agreed by council, or duly delegated working group.
- 7.2. Payment of salaries and payment of deductions from salary such as may be required to be made for tax, national insurance and pension contributions, or similar statutory or discretionary deductions must be made in accordance with the payroll records and on the appropriate dates stipulated in employment contracts, provided that each payment is reported to the next available council meeting, as set out in these regulations above.
- 7.3. No changes shall be made to any employee's pay, emoluments, or terms and conditions of employment without the prior consent of the council or relevant committee.
- 7.4. Each and every payment to employees of net salary and to the appropriate creditor of the statutory and discretionary deductions shall be recorded in a separate confidential record (confidential cash book). This confidential record is not open to inspection or review (under the Freedom of Information Act 2000 or otherwise) other than:
  1. by any councillor who can demonstrate a need to know.
  2. by the internal auditor.
  3. by the external auditor; or
  4. by any person authorised under Audit Commission Act 1998, or any superseding legislation.
- 7.5. The total of such payments in each calendar month shall be reported with all other payments as made as may be required under these Financial Regulations, to ensure that only payments due for the period have been paid.
- 7.6. An effective system of personal performance management should be maintained for the senior officers.
- 7.7. Any termination payments shall be supported by a clear business case and reported to the council. Termination payments shall only be authorised by council.
- 7.8. Before employing interim staff, the council must consider a full business case.

## **8. LOANS AND INVESTMENTS**

- 8.1. All borrowings shall be affected in the name of the council, after obtaining any necessary borrowing approval. Any application for borrowing approval shall be approved by Council as to terms and purpose. The application for borrowing approval, and subsequent arrangements for the loan shall only be approved by full council.
- 8.2. Any financial arrangement which does not require formal borrowing approval from the Secretary of State (such as Hire Purchase or Leasing of tangible assets) shall be subject to approval by the full council. In each case a report in writing shall be provided to council in respect of value for money for the proposed transaction.
- 8.3. The RFO will arrange with the council's banks and investment providers for the sending of a copy of each statement of account to the council offices.
- 8.4. All loans and investments shall be negotiated in the name of the council and shall be for a set period in accordance with council policy.
- 8.5. The council shall consider the need for an Investment Strategy and Policy which, if drawn up, shall be in accordance with relevant regulations, proper practices and guidance. Any Strategy and Policy shall be reviewed by the council at least annually.
- 8.6. All investments of money under the control of the council shall be in the name of the council.
- 8.7. All investment certificates and other documents relating thereto shall be retained in the custody of the RFO.
- 8.8. Payments in respect of short term or long-term investments, including transfers between bank accounts held in the same bank, or branch, shall be made in accordance with Regulation 5 (Authorisation of payments) and Regulation 6 (Instructions for payments).

## **9. INCOME**

- 9.1. The collection of all sums due to the council shall be the responsibility of and under the supervision of the RFO.
- 9.2. Particulars of all charges to be made for work done, services rendered, or goods supplied shall be agreed annually by the council, notified to the RFO and the RFO shall be responsible for the collection of all accounts due to the council.
- 9.3. The council will review all fees and charges at least annually, following a report of the Clerk.
- 9.4. Any sums found to be irrecoverable and any bad debts shall be reported to the council and shall be written off in the year.

- 9.5. All sums received on behalf of the council shall be banked intact as directed by the RFO. In all cases, all receipts shall be deposited with the council's bankers with such frequency as the RFO considers necessary.
- 9.6. The origin of each receipt shall be entered on the paying-in slip.
- 9.7. Personal cheques shall not be cashed out of money held on behalf of the council.
- 9.8. The RFO shall promptly complete any VAT Return that is required.
- 9.9. Where any significant sums of cash are regularly received by the council, the RFO shall take such steps as are agreed by the council to ensure that more than one person is present when the cash is counted in the first instance, that there is a reconciliation to some form of control such as ticket issues, and that appropriate care is taken in the security and safety of individuals banking such cash.
- 9.10. Any income arising which is the property of a charitable trust shall be paid into a charitable bank account. Instructions for the payment of funds due from the charitable trust to the council (to meet expenditure already incurred by the authority) will be given by the Managing Trustees of the charity meeting separately from any council meeting (see also Regulation 16 below)

## **10. ORDERS FOR WORK, GOODS AND SERVICES**

- 10.1. An official order or letter shall be issued for all work, goods and services unless a formal contract is to be prepared or an official order would be inappropriate. Copies of orders shall be retained.
- 10.2. Order books shall be under the control of the RFO.
- 10.3. All members and officers are responsible for obtaining value for money always. An officer issuing an official order shall ensure as far as reasonable and practicable that the best available terms are obtained in respect of each transaction, usually by obtaining three or more quotations or estimates from appropriate suppliers, subject to any *de minimis* provisions in Regulation 11.1 below.
- 10.4. A member may not issue an official order or make any contract on behalf of the council.
- 10.5. The RFO shall verify the lawful nature of any proposed purchase before the issue of any order, and in the case of new or infrequent purchases or payments, the RFO shall ensure that the statutory authority shall be reported to the meeting at which the order is approved so that the minutes can record the power being used.

## **11. CONTRACTS**

Procedures as to contracts are laid down as follows:

- 11.1. Every contract shall comply with these financial regulations, and no exceptions shall be made otherwise than in an emergency provided that this regulation need not apply to contracts which relate to items (i) to (vi) below:
- i. for the supply of gas, electricity, water, sewerage and telephone services.
  - ii. for specialist services such as are provided by solicitors, accountants, surveyors and planning consultants.
  - iii. for work to be executed or goods or materials to be supplied which consist of repairs to or parts for existing machinery or equipment or plant.
  - iv. for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the council.
  - v. for additional audit work of the external auditor up to an estimated value of £500 (in excess of this sum the Clerk and RFO shall act after consultation with the Chair and Vice Chair of council); and
  - vi. for goods or materials proposed to be purchased which are proprietary articles and / or are only sold at a fixed price.
- 11.2. Where the council intends to procure or award a public supply contract, public service contract or public works contract as defined by The Public Contracts Regulations 2015 (“the Regulations”) which is valued at £25,000 or more, the council shall comply with the relevant requirements of the Regulations<sup>2</sup>.
- 11.3. The full requirements of The Regulations, as applicable, shall be followed in respect of the tendering and award of a public supply contract, public service contract or public works contract which exceed thresholds in The Regulations set by the Public Contracts Directive 2014/24/EU (which may change from time to time)<sup>3</sup>.
- 11.4. When applications are made to waive financial regulations relating to contracts to enable a price to be negotiated without competition the reason shall be embodied in a recommendation to the council.
- 11.5. Such invitation to tender shall state the general nature of the intended contract and the Clerk shall obtain the necessary technical assistance to prepare a specification in appropriate cases. The invitation shall in addition state that tenders must be addressed to the Clerk in the ordinary course of post. Each tendering firm shall be supplied with a specifically marked envelope in which the tender is to be sealed and remain sealed until the prescribed date for opening tenders for that contract.

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<sup>2</sup> The Regulations require councils to use the Contracts Finder website to advertise contract opportunities, set out the procedures to be followed in awarding new contracts and to publicise the award of new contracts

<sup>3</sup> Thresholds currently applicable are:

For public supply and public service contracts 209,000 Euros (£164,176)

For public works contracts 5,225,000 Euros (£4,104,394)

- 11.6. All sealed tenders shall be opened at the same time on the prescribed date by the Clerk in the presence of at least one member of council.
- 11.7. Any invitation to tender issued under this regulation shall be subject to Standing Orders item 18 and shall refer to the terms of the Bribery Act 2010.
- 11.8. When it is to enter into a contract of less than £25,000 in value for the supply of goods or materials or for the execution of works or specialist services other than such goods, materials, works or specialist services as are excepted as set out in paragraph (11.1.1) the Clerk or RFO shall obtain 3 quotations (priced descriptions of the proposed supply); where the value is below £5,000 and above £100 the Clerk or RFO shall strive to obtain 3 estimates. Otherwise, Regulation 10.3 above shall apply.
- 11.9. The council shall not be obliged to accept the lowest or any tender, quote or estimate.
- 11.10. Should it occur that the council, or duly delegated working group, does not accept any tender, quote or estimate, the work is not allocated, and the council requires further pricing, provided that the specification does not change, no person shall be permitted to submit a later tender, estimate or quote who was present when the original decision-making process was being undertaken.<sup>4</sup>

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#### <sup>4</sup> **Brexit - sector implications post 31 December**

As well as being a New Year with a difference, 31 December 2020 marks the end of the transition period for EU membership purposes. Queries about the references to the EU Procurement thresholds in Model Standing Order 18 and whether they are obsolete as of 1 **January** 2021. The answer is no. The figures in MSO 18 apply for the purposes of the Public Contract Regulations 2015 and Utilities Contracts Regulations 2016.

On a further procurement point, the end of the transition period also brings new advertising requirements and the introduction of “find a tender”. Government guidance, which also includes procurement policy notes, FAQs and a flow chart sums up the main points <https://www.gov.uk/guidance/public-sector-procurement-from-1-january-2021>

1. Find a Tender will go live at the end of the transition period (23:00 on 31 December 2020).
2. Procurements on OJEU/TED that were commenced prior to the end of the transition period must be concluded on OJEU/TED.
3. New procurements commenced after the end of the Transition Period must be advertised on Find a Tender.
4. Requirements to advertise on Contracts Finder remain unchanged.

#### **GDPR following Brexit**

The EU GDPR will no longer apply directly in the UK at the end of the transition period. However, its **requirements must still be complied after this point**. The new regime is known as “the UK GDPR” and incorporates the Data Protection Act 2018 and other Regulations. NALC Legal will give further guidance as appropriate.

#### **Covid relief voucher scheme - powers**

We are aware that councils without the ability to exercise the General Power of Competence are facing limitations in the form of s.137 donations. We advised recently where a principal authority had set up a scheme enabling their councillors to make donations of vouchers to local bodies, including parish councils. The question asked was what councils could do if they did not have sufficient s.137 funds.

In the particular case it was our view that s.139 (1) of the Local Government Act 1972 would apply as parish councils would be holding and administering gifts for the benefit of the inhabitants of their area. They wouldn't be making donations of their own funds and, as such, s.137 would not be engaged.

## **12. PAYMENTS UNDER CONTRACTS FOR BUILDING OR OTHER CONSTRUCTION WORKS (PUBLIC WORKS CONTRACTS)**

- 12.1. Payments under a contract sum shall be made within the time specified in the contract by the RFO upon receipt of authorised certificates from the architect or other consultants engaged to supervise the contract (subject to any retention as may be specified in the contract).
- 12.2. Where contracts provide for payment by instalments the RFO shall maintain a record of all such payments. In any case where it is estimated that the total cost of work carried out under a contract, excluding agreed variations, will exceed the contract a report shall be submitted to the council.
- 12.3. Any variation to a contract or addition to or omission from a contract must be approved by the council and Clerk to the contractor in writing, the council being informed where the final cost is likely to exceed the financial provision.

## **13. STORES AND EQUIPMENT**

- 13.1. The officer in charge of each section shall be responsible for the care and custody of stores and equipment in that section.
- 13.2. Delivery notes shall be obtained in respect of all goods received into store or otherwise delivered and goods must be checked as to order and quality at the time delivery is made.
- 13.3. Stocks shall be kept at the minimum levels consistent with operational requirements.
- 13.4. The RFO shall be responsible for periodic checks of stocks and stores at least annually.

## **14. ASSETS, PROPERTIES AND ESTATES**

- 14.1. The Clerk shall make appropriate arrangements for the custody of all title deeds and Land Registry Certificates of properties held by the council. The RFO shall ensure a record is maintained of all properties held by the council, recording the location, extent, plan, reference, purchase details, nature of the interest, tenancies granted, rents

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This advice was given on particular facts and if councils are unsure about their spending powers, they should take advice. Where cases involve gifts held on trust, s.139 might be relevant.

payable and purpose for which held in accordance with Accounts and Audit Regulations.

- 14.2. No tangible moveable property shall be purchased or otherwise acquired, sold, leased or otherwise disposed of, without the authority of the council, together with any other consents required by law, save where the estimated value of any one item of tangible movable property does not exceed £250.
- 14.3. No real property (interests in land) shall be sold, leased or otherwise disposed of without the authority of the council, together with any other consents required by law. In each case a report in writing shall be provided to council in respect of valuation and surveyed condition of the property (including matters such as planning permissions and covenants) together with a proper business case (including an adequate level of consultation with the electorate).
- 14.4. No real property (interests in land) shall be purchased or acquired without the authority of the full council. In each case a report in writing shall be provided to council in respect of valuation and surveyed condition of the property (including matters such as planning permissions and covenants) together with a proper business case (including an adequate level of consultation with the electorate).
- 14.5. Subject only to the limit set in Regulation 14.2 above, no tangible moveable property shall be purchased or acquired without the authority of the full council. In each case a report in writing shall be provided to council with a full business case.
- 14.6. The RFO shall ensure that an appropriate and accurate Register of Assets and Investments is kept up to date. The continued existence of tangible assets shown in the Register shall be verified at least annually, possibly in conjunction with a health and safety inspection of assets.

## **15. INSURANCE**

- 15.1. Following the annual risk assessment (per Regulation 17), the RFO shall affect all insurances and negotiate all claims on the council's insurers in consultation with the Clerk.
- 15.2. The Clerk shall give prompt notification to the RFO of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances.
- 15.3. The RFO shall keep a record of all insurances effected by the council and the property and risks covered thereby and annually review it.
- 15.4. The RFO shall be notified of any loss liability or damage or of any event likely to lead to a claim and shall report these to council at the next available meeting.
- 15.5. All appropriate members and employees of the council shall be included in a suitable form of security or fidelity guarantee insurance which shall cover the maximum risk exposure as determined [annually] by the council, or duly delegated committee.

## **16. CHARITIES**

- 16.1. Where the council is sole managing trustee of a charitable body the Clerk and RFO shall ensure that separate accounts are kept of the funds held on charitable trusts and separate financial reports made in such form as shall be appropriate, in accordance with Charity Law and legislation, or as determined by the Charity Commission. The Clerk and RFO shall arrange for any audit or independent examination as may be required by Charity Law or any Governing Document.

## **17. RISK MANAGEMENT**

- 17.1. The council is responsible for putting in place arrangements for the management of risk. The Clerk with the RFO shall prepare, for approval by the council, risk management policy statements in respect of all activities of the council. Risk policy statements and consequential risk management arrangements shall be reviewed by the council at least annually.
- 17.2. When considering any recent activity, the RFO shall prepare a draft risk assessment including risk management proposals for consideration and adoption by the council.

## **18. SUSPENSION AND REVISION OF FINANCIAL REGULATIONS**

- 18.1. It shall be the duty of the council to review the Financial Regulations annually. The Clerk shall decide to monitor changes in legislation or proper practices and shall advise the council of any requirement for a consequential amendment to these Financial Regulations.
- 18.2. The council may, by resolution of the council duly notified prior to the relevant meeting of council, suspend any part of these Financial Regulations provided that reasons for the suspension are recorded and that an assessment of the risks arising has been drawn up and presented in advance to all members of council.