

**HENLEY ON THAMES TOWN COUNCIL**  
**FINANCIAL REGULATIONS - applicable from January 2017**

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These Financial Regulations were adopted by Full Council January 2017

## **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 and any individual financial regulations relating to contracts (see appendix 1).
- 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:
  - for the timely production of accounts;
  - that provide for the safe and efficient safeguarding of public money;
  - to prevent and detect inaccuracy and fraud; and
  - 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 within the Annual Return, 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.
- 1.9. The RFO:
  - acts under the policy direction of the Council;
  - administers the Council's financial affairs in accordance with all Acts, Regulations and proper practices;
  - determines on behalf of the Council its accounting records and accounting control systems;
  - ensures the accounting control systems are observed;

- maintains the accounting records of the Council up to date in accordance with proper practices;
  - assists the Council to secure economy, efficiency and effectiveness in the use of its resources; and
  - 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 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 in particular contain:
- 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;
  - a record of the assets and liabilities of the Council; and
  - 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:
- procedures to ensure that the financial transactions of the Council are recorded as soon as reasonably practicable and as accurately and reasonably as possible;
  - procedures to enable the prevention and detection of inaccuracies and fraud and the ability to reconstruct any lost records;
  - identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers in relation to significant transactions;
  - 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
- 1.13. measures to ensure that risk is properly managed (see Section 16).
- 1.14. The Council is not empowered by these Regulations or otherwise to delegate certain specified decisions. In particular any decision regarding:
- setting the final budget or the precept;
  - approving accounting statements;
  - approving an Annual Governance Statement;

- borrowing;
- writing off bad debts **valued at over £1,000 (see section 9.4)**;
- declaring eligibility for the General Power of Competence; and
- addressing recommendations in any report from the internal or external auditors,

shall be a matter for the Full Council only.

1.15. In addition the Council must:

- determine and keep under regular review the bank mandate for all Council bank accounts;
- approve any grant in excess of the annual Community Grants Budget of £10,000 total;
- approve any single commitment in excess of £5,000; and
- in respect of the annual salary for any employee have regard to recommendations about annual salaries of employees made by the relevant committee in accordance with its terms of reference.

1.15 Where reference is made in these Financial Regulations to the staff Management Team this comprises the following persons:

- The Town Clerk
- The Responsible Financial Officer
- The Accountant (if different)
- The Chief Committee Administrator
- The Parks Services Manager
- The Information Centre Manager
- The Town Manager

1.16. 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.

1.17. 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. Every month the RFO shall sign the bank reconciliation prepared by the Accounts Assistant as evidence of verification.
- 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 specified in proper practices) 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 purpose of 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:
  - be competent and independent of the financial operations of the Council;
  - report to Council in writing on a regular basis with a minimum of one annual written report during each financial year;
  - to demonstrate competence, objectivity and independence, be free from any actual or perceived conflicts of interest, including those arising from family relationships; and
  - 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:
  - perform any operational duties for the Council;
  - initiate or approve accounting transactions; or
  - 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 shall review its 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 November each year including any proposals for revising the forecast.
- 3.2. The RFO must each year, by no later than December, prepare 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 Council.
- 3.3. The Council shall consider annual budget proposals in relation to the council's 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 by the end of January each year. 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.

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

- 4.1. The Accountant/RFO shall provide the Council each month with a statement of income and expenditure, comparing actual expenditure to the appropriate date against that planned as shown in the budget, with explanations regarding any lines of significant variation. These statements are to be prepared within three weeks of the month end and will be included for note at the next Finance Strategy & Management Committee meeting. The Spending Committees (Town & Community and Recreation & Amenities) receive their most recent monthly figures at each meeting, to note.
- 4.2. 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:
  - the Council for all items over £5,000;
  - the Town Clerk or RFO for items up to and including £5,000;

- members of the staff Management Team for any items below £500, at the Town Clerk or RFO's discretion.

For items over £5,000 authority is to be evidenced by a minute of a Committee Meeting as approved by Full Council.

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

- 4.3. 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').
- 4.4. Unspent provisions in the revenue or capital budgets for completed projects shall not be carried forward to a subsequent year.
- 4.5. Claims for payment of mileage and/or travel and subsistence expenses shall be submitted to the Town Clerk for approval. Members' mileage claims shall be limited to the tax-free rate per mile stated by HM Revenue & Customs (currently 45p per mile). Officers' claims shall be limited to those stated on the Council's approved expenses claim forms and will depend on the 'cc' of the car used. Anyone claiming mileage for Council business shall ensure that his/her own motor insurance policy allows business use of the vehicle.
- 4.6. The salary budgets are to be reviewed at least annually in March for the following financial year and such review shall be evidenced by a hard copy schedule signed by the Town Clerk and the Chairman of Council or relevant committee. The RFO will inform committees of any changes impacting on their budget requirement for the coming year in good time.
- 4.7. In cases of extreme risk to the delivery of council services, the Town Clerk/RFO may authorise revenue expenditure on behalf of the Council which in the Town Clerk/RFO's judgement it is necessary to carry out. Such expenditure includes repair, replacement or other work, whether or not there is any budgetary provision for the expenditure, subject to a limit of £5,000. The Town Clerk/RFO shall report such action to the Chairman as soon as possible and to the Council as soon as practicable thereafter, see Section 17 below.
- 4.8. No expenditure over £5,000 shall be authorised in relation to any capital project and no contract entered into or tender accepted involving capital expenditure unless the Council is satisfied that the necessary funds are available. For items over £5,000 authority is to be evidenced by a minute of a Committee Meeting as approved by Full Council.
- 4.9. All capital works shall be administered in accordance with the Council's Standing Orders and Financial Regulations relating to contracts, see Section 11 below. A de minimus of £250 is in operation

- 4.10. 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 Accounts Assistant shall prepare a detailed schedule of payments by Bankers Automated Clearance System (BACS), normally twice a month, with the relevant supporting documentation attached. The RFO or Town Clerk shall sign the schedule for compliance, followed by authorisation by two Councillors who are serving bank signatories. Authorisation for payment will be indicated by the signature of all three persons on the face of the schedule and will indicate that the schedule has been agreed to the supporting documentation. A copy of the schedule will be presented at the following Finance Strategy & Management Committee meeting to note. 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. Individual cheque payments may be made in circumstances where the payment cannot be included in a BACS payments run, and will still require three signatures as indicated at 5.2 above before authorisation for payment is satisfied. The RFO or Town Clerk must approve/authorise the supporting documentation and two Councillors who are serving bank signatories must sign the cheque. Such payments will be included in a separate list prepared at each month end, along with Standing Orders and Direct Debit payments, for the following Finance Strategy & Management Committee meeting to note.
- 5.4. No Councillor shall give approval for a payment in respect of his/her own expenses.
- 5.5. A Councillor who is a bank signatory, having connection by virtue of family or business relationships with the beneficiary of a payment, should not under normal circumstances be a signatory to the payment in question.
- 5.6. All invoices for payment valued at over £500 (net of VAT) shall be examined, verified and certified by the RFO or Town Clerk 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. Payments valued at £500 or less may be examined, verified and certified by a staff member of the Management Team at the Town Clerk or RFO's discretion. Each invoice is to be issued a sequential number for filing purposes.
- 5.7. The Accounts Assistant shall examine invoices for arithmetical accuracy and analyse them to the appropriate expenditure heading. The RFO shall pay all invoices submitted, and which are in order, in accordance with the Council's payment policy, which is generally within 6 weeks of the invoice date, or as otherwise agreed with the supplier, for instance to avoid an interest charge.

- 5.8. The Town Clerk and RFO shall have delegated authority to authorise the payment of items only in the circumstances indicated at 4.7 above.
- 5.9. The Finance Strategy & Management Committee has delegated powers to authorise Community Grants up to the amount set in the budget and in accordance with any policy statement approved by Council. Any Revenue or Capital Grant in excess of this budget shall be subject to ratification by resolution of the council before payment.
- 5.10. 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.
- 5.11. Cheque signatories will be:
- Town Clerk,
  - Chairman of the Council (the Mayor);
  - Deputy Chairman (Deputy Mayor);
  - Chair of the Finance Strategy & Management Committee
  - Chair of the Town & Communities Committee;
  - Chair of the Recreation & Amenities Committee;
  - Chair of the Planning Committee.
- 5.12 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.
- 5.13 Direct debit instructions may be authorised by two serving cheque signatures following compliance and budgetary checks by the RFO/Accountant.
- 5.14 Payments by the Council's credit card may only be made when it is not possible or practical to pay by cheque or BACS and must be used only for authorised costs as indicated for other forms of payment. Only one credit card is to be issued and only the Town Clerk may authorise payments. The PIN will remain the knowledge of the Town Clerk only. The balance is limited to £2,000 (revised figure approved at Full Council 8 January 2019) at any time. Payments are included in the list of non-BACS payments indicated at 5.3 above for presentation to the Finance Strategy & Management Committee and public scrutiny.

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

- 6.1. The Council will maintain safe and efficient arrangements for the making of its payments.

- 6.2. Following authorisation under Financial Regulation 5 above, the Town Clerk or RFO shall give instruction to the bank that a payment shall be made.
- 6.3. If thought appropriate by the council, payment for utility supplies (energy, telephone and water) and any National Non-Domestic Rates may be made by variable direct debit provided that the instructions are signed by two members and any payments are reported on a list of non-BACS payments presented monthly at the following Finance Strategy & Management Committee's meeting. The RFO will review the payment method when utility contracts are renewed or replaced.
- 6.4. If thought appropriate by the Council, payment for supplies, services and officer salaries may be made by BACS or CHAPS methods provided that the instructions for each payment are signed, or otherwise evidenced, by two authorised bank signatories, are retained and any payments are reported to the next Finance Strategy & Management Committee meeting. The approval of the use of BACS or CHAPS shall be assumed to continue unless Council otherwise instructs the RFO.
- 6.5. If thought appropriate by the Council, payment for certain items may be made by internet banking transfer provided evidence is retained showing which members approved the payment and any such payments are reported to the next Finance Strategy & Management Committee meeting.
- 6.6. 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 handed to and retained by the Town Clerk or RFO in a sealed dated envelope. This envelope may not be opened other than in the presence of two members. 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.
- 6.7. No employee or councillor shall disclose any PIN or password, relevant to the working of the Council or its bank accounts, to any person not authorised in writing by the Council or a duly delegated committee.
- 6.8. Daily back-up copies of the records on any computer shall be made and shall be remotely stored securely.
- 6.9. 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. All computer or mobile devices used for downloading information or sending information are to be encrypted for security.
- 6.10. 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. The bank mandate will state clearly the amounts of payments that can be instructed by a stated number of approvals (normally two).

- 6.11. 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.
- 6.12. Changes to account details for suppliers, which are used for internet banking may only be changed on written hard copy notification by the supplier and supported by hard copy authority for change signed by the RFO and two councillors in accordance with the bank mandate. Standing data with suppliers will be checked as payments are made.
- 6.13. Debit cards and pre-paid debit cards may not be issued to employees.
- 6.14. Any corporate credit card or trade card account opened by the Council will be specifically restricted to use by the Town Clerk 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.
- 6.15. The RFO shall maintain a petty cash float of £250 for the purpose of defraying operational and other expenses. Vouchers for payments made from petty cash shall be kept to substantiate the payment.
  - a) Income received must not be paid into the petty cash float but must be separately banked, as provided elsewhere in these regulations.
  - b) Any single payment in excess of £50 must be signed by the Town Clerk or RFO.
  - c) Withdrawals from the bank to maintain the petty cash float will be shown with any other cheques on the monthly schedule of non-BACS payments. The RFO will authorise the cheque payment by signing a schedule prepared by the Accounts Assistant detailing the individual petty cash payments. Two Councillors will sign the cheque indicating their approval in the usual way.

## **7. PAYMENT OF SALARIES**

- 7.1. As an employer, the Council shall make arrangements 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 currently operating, and salary rates shall be as agreed by the Council. Monthly time sheets and expenses claims should be signed by the relevant section head or Town Clerk where appropriate.
- 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 authorised by the Town Clerk or RFO and two signatories, and reported at the next Finance Strategy & Management Committee meeting.

- 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.
- 7.4. Individual payments of net salaries to employees shall be attached to a summary report to be approved for payment by the Town Clerk or RFO and two Councillors who are current bank signatories. The record of individual payments is not open to inspection or review (under the Freedom of Information Act 2000 or otherwise) other than:
- a) by any councillor who can demonstrate a need to know;
  - b) by the internal auditor;
  - c) by the external auditor; or
  - d) by any person authorised under Audit Commission Act 1998, or any superseding legislation.

The summary report is presented to the next Finance Strategy & Management Committee meeting.

- 7.5. An effective system of personal performance management should be maintained for the senior officers.
- 7.6. Any termination payments shall be supported by a clear business case and reported to the council. Termination payments shall only be authorised by Council.
- 7.7. Before employing interim staff the Council must consider a full business case.
- 7.8. The RFO will ensure compliance with Automatic Enrolment legislation regarding pensions for the Council's staff.

## **8. LOANS TO THE COUNCIL AND INVESTMENTS**

- 8.1. All borrowings shall be effected 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 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 Council will arrange with the Council's banks and investment providers for the sending of a copy of each monthly statement of account to the Town Clerk or RFO.
- 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 review its Investment Strategy and Policy annually which shall be in accordance with relevant regulations, proper practices and guidance.
- 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 or an approved nominee company.
- 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 by the RFO.
- 9.4. Any sums found to be irrecoverable and any bad debts shall be reported to the Council if over £1,000 and shall be provided for or 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 and at least weekly.
- 9.6. The origin of, or explanation for, each receipt shall be entered on the computerised till operated by the Information Centre staff. The Z listing produced by the till should be reconciled to the amounts of cash and cheques banked and the credit card receipts paid directly into the Council's bank account.
- 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. Any repayment claim due in accordance with VAT Act 1994 section 33 shall be made each calendar quarter.
- 9.9. Where any sums of cash are 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, and that there is a reconciliation to some

form of control such as ticket issues. Appropriate care should be taken in ensuring the security and safety of individuals banking cash, with a requirement that at least two staff should be present when cash of over £2,000 is taken to the bank. Cash generated from the Information Centre at Mill Meadows and from temporary moorings should be delivered to the Town Hall at the earliest opportunity. If not delivered daily such cash should be held in the safe located in the parks staff room at the Pavilion.

## **10. ORDERS FOR WORK, GOODS AND SERVICES VALUE UP TO £5,000**

- 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. Pre-numbered triplicate order books shall be controlled by the RFO. The white copy is for the supplier, the yellow copy is retained in the book and the red copy is attached to the purchase invoice.
- 10.3. All members and officers are responsible for obtaining value for money at all times. Any officer issuing a purchase 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. Officers should refer to the District and County Councils for preferred suppliers and joint procurements wherever practicable.
- 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.
- 10.6. It is good practice to consider the social value in all Council contracts.

## **11. CONTRACTS VALUE OVER £5,000**

- 11.1. Procedures as to contracts are laid down as follows:
  - a. Every contract with a value of over £5,000 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 £1,000; and
  - vi. for goods or materials proposed to be purchased which are proprietary articles and / or are only sold at a fixed price.
- b. When the Council 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 (a) the Town Clerk or RFO shall obtain 3 quotations (priced descriptions of the proposed supply).
  - c. 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>1</sup>.
  - d. 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, currently Eur 209,000 (which may change from time to time)<sup>2</sup>.
  - e. Transaction value limits at b, c and d above apply to the total value where transactions are deemed to be connected to the same overall works, goods or services.
  - f. Notwithstanding the legal requirements at c above, where a transaction has a value of over £50,000 the additional requirements stated at Appendix 1 below should be fulfilled.
  - g. The procurement process should be completed within a twelve month period. The start of the process is signified by Full Council approval to proceed with the project, and the process is completed when Full Council awards the contract.
  - h. 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.

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<sup>1</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>2</sup> Thresholds currently applicable are:

- a. For public supply and public service contracts 209,000 Euros (£164,176)
- b. For public works contracts 5,225,000 Euros (£4,104,394)

- i. Such invitation to tender shall state the general nature of the intended contract and the Town 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 Town 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.
- j. All sealed tenders shall be opened at the same time on the prescribed date by the Town Clerk in the presence of at least two members of Council.
- k. Any invitation to tender issued under this regulation shall be subject to Standing Orders 32, and shall refer to the terms of the Bribery Act 2010.
  - l. The Council shall not be obliged to accept the lowest or any tender, quote or estimate.
  - m. Should it occur that the Council, or duly delegated committee, 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.

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

- 12.1. Payments on account of the contract sum shall be made within the time specified in the contract by the RFO upon authorised certificates of the architect or other consultants engaged to supervise the contract (subject to any percentage withholding as may be agreed in the particular 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 sum of 5% or more 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 Town 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 ensuring periodic checks of stocks and stores are undertaken at least annually.

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

- 14.1. The Town Clerk shall make appropriate arrangements for the safe retention 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 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 £5,000.
- 14.3. In accordance with the Council's 'Acquisitions and Disposals Policy for land and Buildings', 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. In accordance with the Council's 'Acquisitions and Disposals Policy for land and Buildings', no real property (interests in land) shall be purchased or acquired without the authority of the 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 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 16 below), the RFO shall effect all insurances and negotiate all claims on the Council's insurers.

- 15.2. The Town 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 any significant loss or damage (claim value of over £5,000) 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 by the council.

## **16. RISK MANAGEMENT**

- 16.1. The Council is responsible for putting in place arrangements for the management of risk. The Town 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.
- 16.2. When considering any new activity, the Town Clerk with the RFO shall prepare a draft risk assessment including risk management proposals for consideration and adoption by the council.

## **17. INVOKING EMERGENCY PROCEDURES**

- 17.1 The Town Clerk and the RFO may take any action considered necessary in an emergency.
- 17.2 The following general management powers may be invoked:
  - a) Without prejudice to any specific delegation in the Financial Regulations, in the absence of both the Town Clerk and the RFO, the Management Team (see Section 1.15 above) may carry out actions or exercise any statutory power within their area of responsibility on behalf of the Council.
  - b) In the absence of both the Town Clerk and the RFO, the Legal Administrator is authorised to instruct solicitors on legal matters as is indicated in the Service Level Agreement with OCC. Matters of a new/novel or contentious nature should be excluded from this authority and dealt with via the legal group, Committees and Full Council in the normal way.
- 17.3 The invocation of emergency procedures as indicated above must be communicated immediately to all members.

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

- 18.1. It shall be the duty of the Council to review the Financial Regulations of the Council at least annually. The RFO shall make arrangements 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.

*Revision at point 5.14 recommended for approval at FSM Committee on 4<sup>th</sup> December 2018, approved by Full Council on 8<sup>th</sup> January 2019.*

## **HENLEY ON THAMES TOWN COUNCIL**

### **FINANCIAL REGULATIONS applicable from January 2017**

#### **Appendix 1 – Procedures to be followed in awarding new contracts**

Pursuant to Section 11.1f in the Financial Regulations, for all transactions with a value of over £50,000 the following procedures must be followed in awarding new contracts:

##### **1 Stage 1 - Developing and specifying the needs**

- a) There must be a clear business need and a clear outcome to be achieved by the project, with a list of the essential requirements to be fulfilled.
- b) The expenditure should either be required to enable normal business/service to proceed or to improve business performance or the Council's ability to provide services. The case must address future phases that may transpire once the initial expenditure is made.
- c) The business case should address whether the project could be done in phases.
- d) Consider whether the products/services are in fact already available within the organisation.
- e) Determine which Committee is responsible for the preparation of the business case – in all cases the business case will need to be laid before the FSM Committee for approval. The funds must be available and the time line allow for due consideration by Council.
- f) Consider whether residents or local voluntary groups could assist in the delivery of part of the project.
- g) Consult with residents or users so that it is clear what is needed, who will use it and what their essential requirements are. The time line should allow for public engagement and feedback where appropriate.
- h) Consult with other Councils who may have undertaken a similar project, including their experience with external funding.
- i) Consider all risks that could be associated with the project such as health and safety, time loss, insurance risks and Council reputation.
- j) The specification must be in writing and be based on the needs identified in the business case.
- k) It must be clear and comprehensive. It may be useful to indicate a budget for the project giving contractors an idea of the range of the project so they can tailor their submissions to meet the budget, but this will not always be the case.

- l) It should avoid brand names and use generic technical specifications.
- m) The specification should present the optimum combination of whole-life costs, price, quality and fitness for purpose to meet the requirements. It must therefore include on-going costs and termination costs (e.g. the removal of a play area that could become dangerous if left to decay).
- n) The time line must allow for a compliant tender process to attract sufficient quality bids.
- o) Contractors should be required to identify key stages within the project in their specification for ease of later putting into place a program of checks as the stages are completed (see Stage 3)
- p) Contractors should be required to identify and assess areas of the project where there could be an element of unpredictability, with guidance on possible costs and effects on the end result that could ensue.
- q) The specification should make clear that, once agreed, the contract value will be final and that any increase in the charge over and above the original tender quote will not be paid unless agreed otherwise in writing.
- r) The specification should require the contractors to offer reasonable guarantees and a requirement to attend to any 'snagging' issues within a reasonable time of their identification.
- s) In general there should be a 5-10% retention fee, to be released according to a pre-agreed time scale, providing set criteria have been met.
- t) Where deemed necessary, obtain the necessary technical assistance – where there is a charge for this assistance it should be approved by the relevant committee (or FSM if it amounts to over £5,000) followed by Full Council. If this is done, Council should consider whether the expert should also be appointed to project manage the contract, that person possibly being in a better position to identify possible problem areas as and when they arise. In this case, Stage 3 would apply to the work of the project manager as well as to the contractor.
- u) On determination and production of the contract document, the Contracts Finder requirements including advertising and access to documents must be followed.
- v) Where a contract value is in excess of Eur 209,000 (currently around £172,514) the regulations set by the Public Contracts Directive 2014/24/EU must be followed.

## **Stage 2 - Determining the best procurement strategy**

- a) In almost all cases where the value of the contract is between £50,000 and £172,514 the best strategy for appointment will be by tender.
- b) The basis for the appointment should be predetermined, ie whether it should be the lowest price, or MEAT (most economically advantageous tender), or some other criteria.
- c) The Town Clerk or RFO shall invite tenders. A notice shall be advertised in the same manner as public notices of meetings of the Council and shall state the general nature of the contract and the time and date by which tenders should reach the Council. Such notice shall invite those interested to apply within a specified time period of not less than 10 days. A copy of the notice shall also be sent to contractors whose names appear on the list of approved contractors held on the County Council's Procurement Service database. The notice will not be advertised more than 24 hours prior to the advertisement to be entered on the Contracts Finder website.
- d) 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.
- e) All sealed tenders shall be opened at the same time on the prescribed date and each document initialled by the Town Clerk in the presence of at least one member of Council to prevent any possible subsequent substitution. Detail of the total tender sum for each contractor should be recorded in the register.
- f) Tenders received should be formally evaluated either in-house or by a specialist advisor appointed by Council for that specific purpose. The financial security of the contractor and their ability to deliver should also form part of the evaluation.
- g) If less than three tenders are received or if all the tenders are identical the Council may make such arrangements as it thinks fit for procuring the goods or materials or executing the works.
- h) The Council shall not be obliged to accept the lowest or any tender, quote or estimate.
- i) Where the value of the contract is likely to exceed Eur 209,000 the Council must consider whether the Public Contracts Regulation 2015 (SI No. 102) and the Utilities Contracts (Amendment) Regulations 2009 (No. 3100) apply to the contract and, if either of those Regulations apply, the Council must comply with EU procurement rules.

## **Stage 3 – Managing the Contract**

- a) Officers should proactively manage the contract and a designated officer and, where necessary, designated Councillor should be the central point of contact. Progress should not just be left to the supplier. Officers should regularly visit the

site and engage in conversation with the main contractor for the contract within a pre-arranged timetable.

- b) There should be a program of checking the work/goods against the specification which should identify the key stages to look out for.
- c) There should be a procedure for identifying inadequacies/poor performance and for remedial action. This could include the designated officer/Councillor undertaking spot checks of the site, taking regular photographs of the work as it is being undertaken, being given detailed schedules of the materials being used so that they can be easily identified during the installation, asking to see workers' time sheets, etc.
- d) Only in exceptional circumstances should the actual work undertaken differ from the original specification. This should only occur where savings or significant benefits can be made to the Council's advantage, or where officers have presented to Councillors and an agreed course of action has been approved.
- e) In some cases where skilled or complicated works are being undertaken the Council should rely on expert opinions. In such a case, the expert would also be required to present feedback according to a schedule or timetable to be agreed with the Council, and it would not negate the need for the Council still to agree a program for active management and site visits etc.
- f) A record of supplier performance should be maintained along with a record of any concerns and how they were identified and dealt with.
- g) There should be a thorough review at the end of the contract, including how effective the early stages of the whole process turned out to be so that lessons can be learned for the future.
- h) In general for one year after the completion of the project details of snagging issues (and the remedy) should be kept, along with any more significant issues of quality and workmanship. A full review of all such points should be undertaken before the retention fee is paid over.
- i) Where a contract for building or other construction works is entered into payments on account of the contract sum shall be made within the time specified in the contract by the Town Clerk upon authorised certificates of the architect or other consultants engaged to supervise the contract (subject to any percentage withholding as may be agreed in the particular contract).
- j) Where such contracts provide for payments by instalment the Town Clerk 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 sum of 5% or more a report shall be submitted to the Council.