

**NEWBURY TOWN COUNCIL**

**FINANCIAL REGULATIONS – Approved 16<sup>th</sup> October 2023**

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**These Financial Regulations were approved by the Policy & Resources Committee on Council 16<sup>th</sup> October 2023 and recommended to Full Council for adoption. Internal Auditor recommendation to use with immediate effect.**

## **1. GENERAL**

- 1.1. Where these regulations refer to “the Council”, this is to be interpreted as meaning the Council, its Committees or Sub-Committees unless otherwise stated. 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 must be observed in conjunction with the Council’s standing orders. 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.
- 1.2. The Council’s accounting control systems must include measures:
  - a) for the timely production of accounts.
  - b) that provide for the safe and efficient safeguarding of public money.
  - c) to prevent and detect inaccuracy and fraud.
  - d) for identifying the duties of officers.
- 1.3. These financial regulations demonstrate how the Council meets these responsibilities and requirements.
- 1.4. 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.
- 1.5. A breach of these Regulations by an employee may be considered as gross misconduct.
- 1.6. 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.
- 1.7. The Responsible Financial Officer (RFO) holds a statutory office to be appointed by the Council.
- 1.8. The RFO acts under the policy direction of the Council and
  - a) administers the Council's financial affairs in accordance with all Acts, Regulations and proper practices.
  - b) determines on behalf of the Council its accounting records and accounting control systems.
  - c) ensures the accounting control systems are observed.

- d) maintains the accounting records of the Council up to date in accordance with proper practices.
- e) assists the Council to secure economy, efficiency and effectiveness in the use of its resources.
- f) produces financial management information as required by the Council.

1.9. 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.

1.10. The accounting records determined by the RFO shall in particular contain:

- a) 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.
- b) a record of the assets and liabilities of the Council.
- c) 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.

1.11. The accounting control systems determined by the RFO shall include:

- a) procedures to ensure that the financial transactions of the Council are recorded as soon as reasonably practicable and as accurately and reasonably as possible.
- b) procedures to enable the prevention and detection of inaccuracies and fraud and the ability to reconstruct any lost records.
- c) identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers in relation to significant transactions.
- d) 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.
- e) measures to ensure that risk is properly managed.

- 1.12. The Council is not empowered by these Regulations or otherwise to delegate certain specified decisions. In particular any decision regarding:
- a) setting the final budget or the precept (Council tax requirement).
  - b) approving accounting statements.
  - c) approving an annual governance statement.
  - d) borrowing.
  - e) declaring eligibility for the General Power of Competence.
- shall be a matter for the Full Council only.

- 1.13. In addition the Council must:
- a) determine and keep under regular review the bank mandate for all Council bank accounts.
  - b) 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.

- 1.14. 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. On a regular basis, at least once in each quarter, and at each financial year end, the Chairperson of the Policy and Resources Committee (or Deputy Chairperson) shall verify bank reconciliations (for all accounts) produced by the RFO. They shall sign the reconciliations and the original bank statements (or similar document) as evidence of verification. This activity shall on conclusion be reported, including any exceptions, to and noted by the Policy and Resources Committee.

- 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:
  - a) be competent and independent of the financial operations of the Council.
  - b) report to Council in writing, or in person, on a regular basis with a minimum of one annual written report during each financial year.
  - c) demonstrate competence, objectivity and independence, be free from any actual or perceived conflicts of interest, including those arising from family relationships.
  - d) 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:
  - a) perform any operational duties for the Council.
  - b) initiate or approve accounting transactions.
  - c) 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 the Policy and Resources Committee any correspondence or report from internal or external auditors.
- 2.11. The RFO will make arrangements to meet with the Audit Working Group to discuss the annual internal and external auditors reports and make recommendations to the Policy and Resources Committee.

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

- 3.1. Each committee shall review its annual 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 Policy and Resources committee and the Council.
- 3.3. The Council shall consider annual budget proposals in relation to the Council's four 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 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 for the ensuing year.

### **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, i.e. the budget line.**, this authority is to be determined by:
  - a) Officers authorised by their Manager have spending authority up to and including £500 (excluding VAT)
  - b) a manager of the Council for items over £500 up to and including £1,500 (excluding VAT)
  - c) the CEO and RFO for all items over £1,500 up to and including £50,000 (excluding VAT).

(See 10.5) *“...and when the value of the order is over £1,500 it shall also be approved by the RFO”.*

d) Full Council for all items over £50,000 (excluding VAT)

Such authority is to be evidenced by a signed purchase order.

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

- 4.2 Any expenditure exceeding the authorised amount provided in the revenue budget for that class of expenditure must be approved by resolution of the Council, or the Policy and Resources 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 budget shall not be carried forward to a subsequent year unless by resolution of the P & R Committee or the Council to an earmarked reserve.
- 4.4 The salary budgets are to be reviewed at least annually for the following financial year by the Staff Sub Committee. The RFO will inform committees 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, to Council assets or to Council staff, the CEO may authorise revenue expenditure on behalf of the Council which in the CEO's judgement, it is necessary to carry out. Before doing so the CEO will consult with the Leader of the Council and/or the chair of the relevant committee, and exercise due diligence. Such expenditure includes repair, replacement or other work, whether or not there is any budgetary provision for the expenditure, subject to a limit of £25,000 (excluding VAT). The CEO shall report such action 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 into 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 receipts and payments to date under each head of the budgets, comparing actual expenditure to the appropriate date against that planned as shown in the budget. These statements are to be prepared at least at the end of each financial quarter and shall show explanations of material variances. For this purpose "material" shall be in excess of £1,000 or 15% of the budget line.

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 Policy and Resources Committee. They shall be regularly reviewed for safety and efficiency and to ensure that they are in accordance with any investment strategy.

5.2. All invoices for payment shall be examined and verified by a Corporate Services Officer and matched where possible to a purchase order. They will then be checked by the relevant manager; the RFO or CSM (Community Services Manager), to confirm that the work, goods or services to which each invoice relates has been received or carried out and represents expenditure previously approved by the Council. Invoices over £1,500 (excluding VAT) will also be signed off by the CEO.

5.3. A schedule of the payment of monies shall be prepared by the RFO and presented to the Policy and Resources Committee. 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. The schedule is for information only and members may request clarification on any item on the list before the meeting. The list will be published on the website as an appendix to the Policy and Resources committee meeting, and will therefore ensure all expenditure is published, in line with the 2015 Local Government Transparency Code.

5.4. In respect of grants, the Grants Sub-committee shall approve expenditure up to £10,000 and make recommendation to the Policy and Resources Committee for grant requests between £10,000 and £25,000. Any grant over £25,000 may only be agreed by Full Council.

5.5. 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.

5.6. The approval of all bank payments relating to Town Council Accounts shall be signed by two of the following Councillors:

- Mayor of Newbury
- Deputy Mayor of Newbury
- Former Mayors still on the Council
- Chairperson of Policy and Resources Committee
- Deputy Chairperson of Policy and Resources Committee



- Chairperson of Community Services Committee
- Vice-chairperson of Community Services Committee
- Chairperson of Civic Pride, Arts and Leisure Committee
- Vice-chairperson of Civic Pride, Arts and Leisure Committee
- Chairperson of Planning and Highways
- Vice-chairperson of Planning and Highways

5.7. 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.

## **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 RFO shall give instruction that a payment shall be made.

6.3. Orders for payment drawn on the bank account in accordance with the schedule as presented to Council or committee shall be signed by two members of Council. If a member who is also a bank signatory has declared a disclosable pecuniary interest, or has any other interest, in the matter in respect of which the payment is being made, that Councillor shall be required to consider Standing Orders, and thereby determine whether it is appropriate and / or permissible to be a signatory to the transaction in question.

6.4. To indicate agreement of the details shown the signatories shall each sign the list of purchase ledger payments.

6.5. 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 to Council as made.

6.6. The RFO shall take all possible steps to settle invoices within 30 days of receipt.

6.7. Payment for certain items may be made by BACS or CHAPS methods provided that the instructions for each payment are signed, or otherwise evidenced by two managers followed by two authorized members.

6.8. authorised bank signatories are retained and any payments are reported to Council as made.

6.9. 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.

6.10. 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.

- 6.11. 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.

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 Council employees who will be authorised to approve transactions on those accounts. The employee who authorises internet payments will be different from the one who initially enters them onto the payment system.

- 6.12. 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.
- 6.13. Changes to account details for suppliers, which are used for internet banking may only be changed after following the procedure of checking with the supplier by phone and requesting a confirmation by email. A hard copy of the amended authority will be signed by the RFO. A programme of regular checks of standing data with suppliers will be followed.

## **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 Staff Sub- committee.
- 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 Policy and Resources committee 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 Staff Sub-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. This confidential record 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.
- 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 actually been paid.
- 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 relevant manager shall certify timesheets as to accuracy.

## **8. LOANS 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 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. All loans and investments shall be negotiated by the RFO in the name of the Council and shall be for a set period in accordance with Council policy.
- 8.4. 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 Investment Strategy and Policy shall be reviewed by the Audit Working Group and reported to Policy and Resources committee at least annually.
- 8.5. All investments of money under the control of the Council shall be in the name of the Council.
- 8.6. All investment certificates and other documents relating thereto shall be retained in the custody of the RFO.
- 8.7. Payments in respect of short term or long term investments shall be made in accordance with Regulation 5 (Authorisation of payments) and Regulation 6 (Instructions for payments) in line with the Treasury Policy.

- 8.8. The opening and closing and transfer of funds between bank accounts held in the same bank, or branch, to support the Council's investment strategy, shall be made by the RFO after consulting the CEO, in line with the Treasury Policy. The P&R Committee is to be briefed at their next ordinary meeting.

## **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 RFO, after consultation with the CSM.
- 9.4. Decisions to write off bad debts and address recommendations in any report from the internal or external auditors shall be matters for the Policy and Resources Committee. Any sums found to be irrecoverable and any bad debts shall be reported to the Policy and Resources Committee and irrecoverable debts 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. Any repayment claim due in accordance with VAT Act 1994 section 33 shall be made at least annually coinciding with the financial year end.
- 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.

## **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. Purchase orders shall be controlled by the relevant managers.
- 10.3. All members and officers are responsible for obtaining value for money at all times. 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. A manager or officer shall verify the lawful nature of any proposed purchase before the issue of any order, and when the value of the order is over £1,500 it shall also be approved by the RFO. (See 4.1). *“Where the value is up to £500 the relevant officer may verify, from £500 to £1,500 each manager ...”*

## **11. STORES AND EQUIPMENT**

- 11.1. The officer in charge of each section shall be responsible for the care and custody of stores and equipment in that section.
- 11.2. 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.
- 11.3. Stocks shall be kept at the minimum levels consistent with operational requirements.
- 11.4. The RFO shall be responsible for periodic checks of stocks and stores at least annually.

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

- 12.1. The RFO 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 payable and purpose for which held in accordance with Accounts and Audit Regulations.
- 12.2. 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 £2,000 or it has already been approved in the Council's budget.
- 12.3. 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).

- 12.4. 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).
- 12.5. 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.

### **13. INSURANCE**

- 13.1. Following the annual risk assessment (per Financial Regulation 17), the RFO shall effect all insurances and negotiate all claims on the Council's insurers
- 13.2. All Officers 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.
- 13.3. The RFO shall keep a record of all insurances effected by the Council and the property and risks covered thereby and annually review it.
- 13.4. 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 the relevant committee at the next available meeting.
- 13.5. 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 RFO in consultation with the Leader.

### **14. CHARITIES**

The Council is the sole trustee of the Wash Common Allotments and a memorandum of understanding will be in place to cover this

### **15. RISK MANAGEMENT**

- 15.1. The Council is responsible for putting in place arrangements for the management of risk. The CEO 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 strategy shall be reviewed by the Council at least annually.

- 15.2. When considering any new activity, the CEO shall prepare a draft risk assessment including risk management proposals for consideration and adoption by the Council.

## **16. RESERVES POLICY**

- 16.1. The Council will normally maintain the following specific named earmarked reserves funded from revenue:
  - a) Earmarked Reserves (comprising budget allocations for specific projects – agreed at April Policy and Resources committee meeting)
- 16.2 The sum total of the general reserves must always be a minimum of three months' annual net revenue expenditure. (Excluding CIL, Election Administration Fund (based on projected elections), any Section 106 monies received in the future and any other reserves contractually committed elsewhere)

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

- 17.1. It shall be the duty of the Policy and Resources committee to review the Financial Regulations of the Council from time to time. The RFO shall make arrangements to monitor changes in legislation or proper practices and shall advise the Policy and Resources committee of any requirement for a consequential amendment to these financial regulations.
- 17.2. 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.
- 17.3. A copy of these Financial Regulations shall be given to each Member by the Chief Executive Officer upon declaration of the Member's acceptance of office.

# **Newbury Town Council**

## **Procurement Policy**

**This document is to be read in conjunction with the Councils Financial Regulations (as amended) and the Standing Orders.**

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## 1. Procurement Values

- 1.1 Newbury Town Council (the Council) will strive to obtain best value for money for all goods, materials, and services which it purchases. As a public sector buyer, value for money is fundamental to the Council's procurement activity.
- 1.2 Every contract by the Council, or Officer acting on its behalf, shall apply the Council's procurement values. These values are:
  - 1.2.1 To purchase locally wherever possible and where best value can be satisfied – see the Public Services (Social Value) Act 2012.
  - 1.2.2 When evaluating tenders, the past record of the supplier will be considered but this does not always mean that the Council should always select the lowest cost option<sup>1</sup>.
  - 1.2.3 To look to minimize the Council's carbon emissions and promote long-term environmental sustainability.
  - 1.2.4 To purchase re-cycled goods or less environmentally damaging materials where they meet the required functional standard and will have regard to sustaining the environment.
  - 1.2.5 To look favourably upon organisations that pay the Living Wage as set by the Living Wage Foundation<sup>2</sup>.
- 1.3 The following contracts are exempt from the requirement of these rules:
  - 1.3.1 Contracts relating solely to disposal or acquisition of land;
  - 1.3.2 Employment contracts;
  - 1.3.3 Individual agency contracts for the provision of temporary staff;
  - 1.3.4 Anything specified in The Public Contracts Regulations 2015, Sub-Section 3, Regulations 7 through to 12;
  - 1.3.5 Any service or work, up to the value of £25,000, in the event of an emergency – this is the authority of the Chief Executive Officer allowed for under point 4.5 in the Financial Regulations;
  - 1.3.6 Where contracts are of a specialist nature, such as:
    - 1.3.6.1 Where a contract for the execution of works or the undertaking of services or the supply of goods involves highly specialised technical, scientific or artistic knowledge such that it is not possible to achieve competitive tenders;

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<sup>1</sup> See point 4 in this Procurement Policy.

<sup>2</sup> Information about the Living Wage Foundation, and the Living Wage itself, can be found on their website, accessible here: <https://www.livingwage.org.uk/>

- 1.3.6.2 Where the work to be executed or the goods or materials to be supplied consists of repairs to, or the supply of parts for, existing machinery or plant, or are additions to an existing style or design which would involve the Council in greater cost and additional work in trying to harmonise two differing systems, designs or solutions;
- 1.3.6.3 Where the purchases are of patented or proprietary items and any form of tendering would not be appropriate;
- 1.3.6.4 Where best value is more likely to be achieved by approaching one contractor or consultant.

**2. National Rules**

- 2.1 Contracts that fall below the financial thresholds are not caught by the main regulations of the PCR 2015, though will still be subject to Regulation 110 PCR 2015 relating to below threshold contracts. This requires that such contract opportunities over certain thresholds are to be advertised on Contracts Finder. The current thresholds are £25,000 (sub-central authorities).
- 2.2 All procurement activity undertaken is done in a transparent, fair, and consistent way as required by the Public Contract Regulations 2015 and World Trade Treaty Principles.
- 2.3 In order to tender or quote for contracts, suppliers will need to meet some minimum requirements for example, appropriate insurance levels, evidence of financial stability, compliance with relevant legislation and policies such as health and safety, anti-corruption, modern slavery, and human trafficking etc. where appropriate.
- 2.4 The current rules setting out the procurement route to be used to procure goods, services, or works depending on the value of the contract are detailed below:

**Table 1. Rules for Good and/or Services**

Contract Value	Procurement Route
Below £25,000	Evidence of value for money
£25,000-£50,000	Seek min of three tender returns, including at least one local supplier; in line with Procurement Policy.
£50,000-£213,477* threshold	Local Tender Process, HMG Contracts Finder
Above £213,477*	Above Threshold Tender, to be advertised on HMG Contracts Finder

\*Please note that the thresholds are INCLUSIVE OF VAT. Previous thresholds were exclusive of VAT.

**Table 2. Rules for Works**

Contract Value	Procurement Route
Below £25,000	Evidence of value for money
£25,000-£100,000	Seek min. of three tender returns, including at least one local supplier; in line with Procurement Policy.
£100,000-£5,336,937 threshold*	Local Tender Process, to be advertised on HMG Contracts Finder
Above £5,336,937*	Above Threshold Tender, to be advertised on HMG Contracts Finder

\*Please note that the thresholds are INCLUSIVE OF VAT. Previous thresholds were exclusive of VAT.

### **3. Thresholds and Procedures with Newbury Town Council**

#### **3.1 Estimated contract value**

##### **3.1.1 Contract requirements £100 - £999**

All officers shall strive to obtain alternative estimates detailing priced descriptions of the proposed supply unless a specialist or single source supply is necessary.

##### **3.1.2 Contract requirement £1,000 up to Government procurement Level (currently £25,000)**

All officers shall obtain 3 written quotations detailing priced descriptions of the proposed supply unless a specialist or single source supply is necessary. In the event that it is not possible to obtain 3 quotes, approval may be given by the RFO.

##### **3.1.4 Contract requirements exceeding £25,000 – HM Government Procurement rules shall apply unless exempt.**

3.1.4.1 A formal tender process shall be followed.

3.1.4.2 Where the Council intends to procure or award a public supply contract, public service contract, or public works contract as defined by (“the Regulations”) within The Public Contracts Regulations 2015 which is valued above the current Public Procurement Regulation 2015 threshold, or more, the Council shall comply with the relevant requirements of the Regulations.

3.1.4.3 Subject to additional requirements in the Financial Regulations of the Council, the tender process for contracts valued at over £25,000 for the supply of goods, materials, services, or the execution of works shall include, as a minimum, the following steps:

3.1.4.3.1 A specification for the goods, materials, services, or the execution of works shall be drawn up;

- 3.1.4.3.2 An invitation to tender shall be drawn up to confirm (i) the Council's specification (ii) the time, date and address for the submission of tenders (iii), the date of the Council's written response to the tender and (iv) the prohibition on prospective contractors contacting Councillors or staff to encourage or support their tender outside the prescribed process;
  - 3.1.4.3.3 The invitation to tender shall be advertised for all contracts over £25,000 on the Town Council website, along with any other manner that is appropriate including local press or news circulation;
  - 3.1.4.3.4 Tenders shall be submitted in writing in a sealed marked envelope addressed to the Chief Executive:
  - 3.1.4.3.5 Tenders shall be opened by the Chief Executive in the presence of at least two Councillors after the deadline for submission of tenders has passed;
  - 3.1.4.3.6 Tenders are to be reported and considered by the appropriate meeting of the Council. Decisions on contracts awarded over £25,000 must be made by the appropriated Committee (subject to agreed budget), in default Policy & Resources Committee or Full Council.
- 3.1.4.4 The regulations set out that: The Council must (within 24 hours) also advertise an invitation to tender on the Government's 'Contracts Finder' Website and must the have the contract details available on the internet AND there must be no pre-qualification stage in such a contract. After the contract has been awarded, whether or not it has been advertised on 'Contracts Finder' at the Invitation to Tender stage, the Council must publish on the UK Government's 'Contract Finder' Website: the name of the contractor, the date on which the contract was entered into; the value of the contract; and whether to contractor is a SME or a VCSE.
- 3.1.4.5 When publishing on 'Contracts Finder', the Council may withhold any information from the publicity of a contract which:
- 3.1.4.5.1 would impede law enforcement or would otherwise be contrary to the public interest,
  - 3.1.4.5.2 would prejudice the legitimate commercial interests of a particular economic operator, whether public or private, or

3.1.4.5.3 might prejudice fair competition between economic operators

3.1.4.6 The council does not advertise an opportunity where it makes the opportunity available only to a number of particular economic operators who have been selected for that purpose (whether ad hoc or by virtue of their membership of some closed category such as a framework agreement), regardless of how it draws the opportunity to the attention of those economic operators (i.e. if a council has an arrangement with a limited number of approved organisations to undertake work for the council).

#### **4. The Council is not bound to accept the lowest cost tender.**

- 4.1 Normally the Council will accept the quotation, estimate, or tender that provides best value for money. However, the Council is not obliged to accept the lowest of any tender, quotation, or estimate, but must give valid reasons for not doing so.
- 4.2 Councils are not required to tender for contracts below £25,000 from a tendering exercise (see NALC LTN 87).
- 4.3 Where the contract is likely to exceed the threshold specified ( Crown Commercial Services from time to time) the Council must consider whether the Public Contracts Regulations 2015 apply to the contract and, if either of those Regulations apply, the Council must comply with Public Procurement Policy rules.
- 4.4 When applications are made to waive procedures relating to contracts to enable a price to be negotiated with competition, the reason shall be embodied in a recommendation to the Council.

#### **5. Urgency Process**

- 5.1 In the case of an emergency, refer to point 4.5 in the financial regulations.

#### **6. Social Value commitment**

- 6.1 The Public Services (Social Value) Act 2012 enshrines the social value commitment in law to a certain extent. Under the Act, any council proposing to award a service contract or framework agreement for services above the financial threshold in the EU rules must consider how that which they propose to procure will improve the economic, social and environmental well-being of the area and the council must consider how it will act to secure that improvement when undertaking the procurement. Councils have an obligation to consider whether to consult on their proposals before starting the procurement process.
- 6.2 Councils have embraced social value and often take practical steps that go far beyond the minimum requirements of the Act (for example, by applying it to construction contracts and lower value procurements).

- 6.3 The Toolkit supporting the National Procurement Strategy looks in detail at what Councils can do in this area depending on their level of ambition, including creating local employment and training opportunities and opportunities for SMEs and Voluntary, Community and Social Enterprises.
- 6.4 Newbury Town Council supports and commits to consider social value in its procurement options.
- 6.5 Specifically, in accordance with the Public Services (Social Value) Act 2012, preference will always be given to local suppliers, preferably independent. Internet/national chains can be used – but only if there is no local supplier, or there is a saving of at least 10% or £250, over that local supplier.

## **7. Modern slavery consideration**

- 7.1 The Council is obliged to receive a statement from contracted suppliers (over £10,000 limit) to the effect that they:
  - 7.1.1 meet with the standards set out in the Supplier Code of Conduct, which include requirements to comply with the Modern Slavery Act 2015.
  - 7.1.2 include anti-slavery and human trafficking provisions in their contracts
  - 7.1.3 implement policies and procedures to identify and prevent modern slavery occurring in their supply chain
  - 7.1.4 prepare an annual statement setting out the steps they have taken to tackle modern slavery in any part of their business or supply chain

## **Extract from the Newbury Town Council Standing Orders**

### **37. CONTRACTS**

Procedures as to contracts are laid down as follows:

- a) Every contract shall comply with these Standing Orders, 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 CEO and RFO shall act after consultation with the Leader and Deputy Leader 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.

b) 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>3</sup>.

c) 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>4</sup>.

d) When applications are made to waive Standing Orders relating to contracts to enable a price to be negotiated without competition the reason shall be embodied in a recommendation to the Council.

e) Such invitation to tender shall state the general nature of the intended contract and the CEO or relevant manager 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 CEO or relevant manager 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. Tenders may, in addition, be requested by e-mail, with the commitment that e-mails will be acknowledged but not opened until the prescribed date.

f) All sealed tenders shall be opened at the same time on the prescribed date by the CEO or relevant manager in the presence of at least one member of Council.

g) If less than three tenders are received for contracts above £25,000 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) Any invitation to tender issued under this regulation shall be subject to Standing Order, Nos 24.1 and 24.2 and shall refer to the terms of the Bribery Act 2010.

i) When it is proposed 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 CEO or RFO shall obtain 3 quotations (priced descriptions of

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<sup>3</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>4</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)

the proposed supply); where the value is below £2,500 and above £500 the Clerk or RFO shall strive to obtain 3 estimates. Otherwise, Regulation 10 (3) above shall apply.

j) The Council shall not be obliged to accept the lowest or any tender, quote or estimate.

k) 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. The RFO is responsible for establishing the most cost effective utility supplies, ensuring that best value, green credentials and budgetary requirements are taken into consideration, with any changes in supplier reported to the following Policy and Resources Committee meeting.

### 38. PAYMENTS UNDER CONTRACTS FOR BUILDING OR OTHER CONSTRUCTION WORKS

- 38.1 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).
- 38.2 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 appropriate committee.
- 38.3 Any variation to a contract or addition to or omission from a contract must be approved by the Council and CEO to the contractor in writing, the Council being informed where the final cost is likely to exceed the financial provision.