

## Article 11 – Finance, Contracts, Land Disposal and Legal Matters

### References:

Section 135, 151, 223 and 234, Local Government Act 1972

Part VIII, Local Government Finance Act 1988

### 11.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in the Constitution.

### 11.02 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in the Constitution.

### 11.03 Legal Proceedings

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

The Monitoring Officer has delegated powers to authorise officers to appear in court on the Council's behalf.

### ~~11.04 Authentication of Documents~~

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

~~Any contract with a value exceeding £75,000, entered into on behalf of the local authority shall be made in writing. Subject to the Contract Procedure Rules, such contracts must either be signed by at least two officers of the authority or made under the Common Seal of the Council attested by at least two Chief Officers (or their duly authorised deputies) in accordance with paragraph 11.05.~~

~~In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:~~

- ~~1. the Chief Executive;~~
- ~~2. the Monitoring Officer;~~
- ~~3. any Chief Officer of the Council concerned with the matter to which the document relates; or~~
- ~~4. any officer authorised in writing by such Chief Officer~~

## ~~11.05 Common Seal of the Council~~

### ~~Common Seal~~

~~The Common Seal of the Corporation shall be kept in a safe place by the Records Officer.~~

### ~~Sealing and Execution of Documents~~

~~The Chief Executive, the Monitoring Officer or the Head of Governance or another officer authorised in writing by any of the aforesaid chief/proper officers to act as their deputy for these purposes shall have authority:-~~

- ~~1. To jointly affix the Common Seal and execute under Seal any deed or document subject to at least two of the above named Officers of the Council (or their duly authorised deputies) being present and being signatories.-~~
- ~~2. The Officers of the Council referred to above (or their duly authorised deputies) shall have authority to execute any deed or document not required by law to be under seal which is necessary to effect the decisions of the Council.~~

### ~~Officer Interests~~

~~Where it becomes apparent to an Officer involved in the sealing or execution of documents, that they have a personal interest in a matter to which the document relates, a declaration of the existence and nature of that interest should be made as soon as possible.~~

### ~~Facsimiles of Common Seal~~

~~The following categories of documents may be authorised by a facsimile of the Common Seal of the Council and the printed names or facsimiles of the signatures of the Mayor and the Monitoring Officer. The facsimiles or printed names must be authenticated by entries in the book referred to below and initialled by the Chief Executive, the Monitoring Officer or the Head of Governance:~~

- ~~1. stock certificates and transfers;~~
- ~~2. grants of rights of burials;~~

3. ~~superannuation fund documents.~~

### **Record of Sealing of Documents**

~~An entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Chief Executive, Monitoring Officer or the Head of Governance (or their duly authorised deputies) in a book to be provided for the purpose.~~

#### **11.04 Authentication of Documents**

Any legal document concerning property and any contract with a value exceeding the EU threshold currently £164,176, entered into on behalf of the local authority shall be made in writing made under the Common Seal of the Council attested by at least two Chief Officers or their duly authorised deputies. This is in relation to the Contract Procedure Rules.

An item that requires the Common Seal of the Council may be:

- All Contracts awarded following a Procurement process with a Contract value above the EU financial threshold shall be sealed (unless the Monitoring Officer or delegated officers direct otherwise)
- Contracts, Dynamic Purchasing Systems, approved lists or Framework Agreements
- All property documents (i.e. sales, purchases, leases, licences etc.)
- A contract which the Monitoring Officer or officer with authority considers it desirable should be sealed, other than as specified above

Where it becomes apparent to an Officer involved in the sealing or execution of documents that they have a personal interest in a matter to which the document relates a declaration of the existence and nature of that interest should be made as soon as possible.

An entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made within the Electronic Sealing Logging System to be provided for the purpose.

Sealing usually involves the Assurance Director/Monitoring Officer and the Head of Governance, or one of their nominated deputies for the purpose of authentication. In their absence, the Chief Executive, the Head of Legal or Chief Officer concerned with the matter to which the document relates can be called on to seal documents. The aforementioned officers can authorise in writing for another officer to deputise for them in their absence.

Authentication, for this purpose, means the evidence that a document has been properly approved by full council, a committee or an officer with the appropriate delegated authority.

The Records Officer will present the relevant documents to the proper officer for sealing, marked with the Common Seal of the Council, for authentication and signing by the two signatories. Alongside the Common Seal two lines should be clearly marked with the term 'Authorised Signatory' for the purpose of sealing.

Supporting documentation is required to seal a document, including a sealing note and evidence of authentication.

One copy document may be sealed if clearly designated "counterpart" on the cover page.

An item can be rejected from sealing if there is insufficient evidence in the sealing note that the document has been properly authenticated.

Once sealing has been completed, the names of the Officers which sealed will be listed on the Electronic Sealing Logging System which is maintained and retained by the Records Officer.

### **11.05 Disposal of land and real property**

Every disposal of land and real property made by the Council will comply with the Management of Assets, Property and Land Rules set out in the Constitution.