



The Constitution

Part 9

Financial Rules

The Constitution, Part 9
 Financial Rules

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The Financial Rules

Application

1. The 'Financial Rules' are in four parts: Financial Regulations, Contracts Standing Orders, Financial Authorisations and delegations.
2. These Financial Rules are the framework within which the Council's financial affairs are to be managed. Every Councillor and Officer must comply with them. They are part of the policy framework of the Council and can only be changed with the approval of the Council.
3. The Chief Finance Officer may issue Finance Operating Procedures setting out the detailed application of these Financial Rules.
4. For advice on these Financial Rules or their application, contact the Chief Legal Officer or the Chief Auditor.

Responsibilities of Councillors and Officers

5. All Councillors and Officers are responsible for ensuring that they are:
 - a. Aware of these Financial Rules.
 - b. Aware of the Finance Operating Procedures that apply to their work and responsibilities.
 - c. Complying with the Financial Rules and Finance Operating Procedures.
6. All Councillors and Officers are accountable for the security of resources under their control, and for ensuring that:
 - a. The use of these resources is legal, properly authorised, and achieves best value.
 - b. Resources are used with the minimum possible level of waste, inefficiency or loss.
 - c. Resources are used only in the course of the Council's business, and that where there is specific permission for personal use, (e.g. telephone, Internet), such use is reasonable, lawful, and within any prescribed limits.
7. All Councillors and Officers must carry out, and account for, all financial transactions with due care, promptly, accurately, honestly, and adhering to the Finance Operating Procedures issued by the Chief Finance Officer.
8. All Councillors and Officers are accountable for ensuring that their claims for allowances and reimbursement of expenses include only expenses and allowances that were authorised, and that were actually and necessarily incurred in the performance of their duties.

Financial Rules Part 1: Financial Regulations

Budget Managers

9. In these Financial Rules, “Budget” means any revenue budget allocation or any budget allocation for a capital project. “Budget Manager” means the Officer named as the person accountable for a revenue budget or budget for a capital project.
10. Budget Managers are accountable for ensuring that budget allocations are not overspent and that significant variances, or anticipated variances, from approved budgets are investigated and reported to Chief Officers promptly.

Chief Officers and their Authorised Officers

11. For the purposes of these Financial Rules, the term “Chief Officer” includes any Officer authorised by him/her to act on their behalf. The delegation may be made explicitly by means of an e-mail or written document, or may be implicit in a job title, job description or general responsibility for a function, operation or activity.
12. For the purposes of the Financial Rules, “Chief Officer” means the Officers set out in the Constitution Part 8 Standing Instructions to Chief Officers. It includes the Chief Executive and the Chief Finance Officer where appropriate.
13. Chief Officers are accountable for ensuring that:
 - a. All staff in their directorates are aware of the existence and content of these Financial Rules, and of the sections of the Finance Operating Procedures that apply to their area of work.
 - b. Copies of these Financial Rules are available (physically or electronically) for reference within their directorates and that their staff comply with them.
 - c. Procedures are in place within their directorate to identify, assess, contain or accept risks, and that these procedures are operating effectively, and periodically reviewed.
 - d. Income and expenditure are properly recorded and accounted for.
 - e. A proper scheme of financial delegation, approved by the Chief Executive and the Chief Finance Officer, has been established within their directorate and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Finance Officer’s behalf in respect of budget management, payments, income collection, placing orders, and other aspects of these Financial Rules as appropriate, together with any limits of their authority.
 - f. The Finance Operating Procedures issued by the Chief Finance Officer are complied with within their directorates.
 - g. Adequate records are maintained to provide a management trail leading from the source of income/expenditure through to the accounting statements.
 - h. Any inappropriate use of Council resources is identified and action taken.
 - i. All records are up to date and available for inspection.

- j. Internal and external auditors are given access at all reasonable times, and are promptly provided with any information and explanations that they require in the course of their work.
- k. Budgetary control is maintained within their Directorates and there is a named Budget Manager for each cost-centre.
- l. Budget responsibility is aligned with the decision-making that commits the expenditure on that budget, so that Budget Managers are accountable only for income and expenditure that they can control.
- m. Performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.
- n. Items for disposal are identified and disposed of at the most appropriate time, and only when it is in the best interests of the authority. The best price is obtained (where possible by public auction or tender), bearing in mind other factors, such as environmental issues.
- o. All staff in their directorates are aware of the existence and content of the Council's Anti-Fraud and Confidential Reporting Policy, and comply with it, and that copies are available (physically or electronically) for reference within their directorates.
- p. The Chief Auditor is informed immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources.
- q. All goods and services are ordered only by appropriate persons and are correctly recorded, and that all goods and services are ordered in accordance with the contract standing orders with the Finance Operating Procedures issued by the Chief Finance Officer.

Internal Audit

14. The Chief Finance Officer and the Chief Executive are accountable for ensuring that:
- a. Internal audit is independent in its planning, operation, and reporting.
 - b. Internal and external auditors have unrestricted access to all functions, systems, records, explanations, property and personnel, for the purpose of carrying out an audit, investigation or reasonable enquiry.
 - c. The Chief Auditor may report unedited under their own name to any level of management, and to any committee.

Financial Rules Part 2: Contracts Standing Orders

Contracts Policy

15. The policy of Hastings Borough Council is to ensure that all works, goods and services:
- a. Are obtained honestly and openly.
 - b. Are appropriate for the purpose for which they are obtained.
 - c. Offer the most advantageous balance of quality and price.
 - d. Are consistent with the policies of the Council.

Definitions

16. **Contract** means a legally binding agreement under which the Council receives the benefit of, or incurs the liability for:

- a. The payment of money.
- b. The performance of services.
- c. The execution of work.
- d. The supply of goods or materials.
- e. The transfer of an interest in land.

17. **Authorised Officer** means a Chief Officer authorised by the Council or these Contract Standing Orders to act on the Council's behalf in connection with a contract. It includes any Officer authorised to act on their behalf.

18. **Consultancy** means an engagement to advise the Council corporately or in respect of a particular service delivered by the Council, where the advice relates to the development of strategies, or the infrastructure, or internal management of Council divisions, e.g. with a view to achieving better performance and service delivery. The consultant is to be distinguished from the contractor for professional services whose function is to be instrumental in the delivery of the particular Council service e.g. supervising architects on capital projects, locums and agency staff, counsel instructed by the Chief Legal Officer in the pursuit or defence of the Council's interest.

19. All other definitions are as contained in the Articles of the Constitution.

Responsibilities

20. Chief Officers are responsible for ensuring that:

- a. A proper scheme of delegation has been established within their area of responsibility and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Officer's behalf (referred to in these regulations as the "Authorised Officer") in respect of these contract standing orders, together with any limits of their authority, and arrangements covering the absence of Authorised Officers.
- b. Best value is obtained from the procurement of goods, works and services by taking appropriate steps to obtain competitive prices for goods, works and services of the appropriate quality, in line with best value principles.
- c. All staff in their directorates are aware of the existence and content of these Contract Standing Orders and the relevant Finance Operating Procedures. Chief Officers must ensure that copies are available (physically or electronically) for reference within their directorates and that their staff comply with them.

Legality

21. All contracts and tendering procedures must comply with English Law and where appropriate the requirements of European Union Directives on public contract procurement.

Packaging of contracts

22. No contract may be divided into smaller components for the purpose of avoiding the requirements of these Contract Standing Orders or the relevant Finance Operating Procedures.

Tendering

23. Tendering procedures as set out in part 2 of the Finance Operating Procedures must be followed.

Exemptions from Tendering

24. It is obligatory to invite tenders as set out in the Finance Operating Procedures. Exemptions from tendering may be subject to scrutiny by internal or external audit, and/or the Overview and Scrutiny Committee.

Contracts to be in writing

25. Every contract shall be in writing except for purchases using petty cash or other small cash transactions that would not in the ordinary course of business be reduced to writing.

26. Every contract shall be in a form approved by the Chief Legal Officer or in accordance with guidance as to the form of contracts issued by the Chief Legal Officer from time to time and shall be signed by the Chief Legal Officer or an officer authorised in writing to sign by the Chief Legal Officer.

Financial Rules Part 3: Financial Authorisations from Cabinet to the Chief Executive and their nominees

General Financial Authorisation

27. The Chief Executive and their nominees have full powers to spend money in revenue budgets, capital budgets, and revenue reserves, provided that the cost/expenditure:
- a. Is in accordance with and for the implementation of Council policy and any resolution of the Cabinet, **and**
 - b. Is in compliance with all relevant legal requirements, **and**
 - c. Can be met from allocated revenue or capital budgets, or reserves, **and**
 - d. Is within the provisions of these Financial Rules including, where appropriate, the requirements for consultation and approval set out in Table A.
28. This power includes the invitation and acceptance of tenders and quotations, the placing of orders and the power to enter into contracts subject to the provisions of these Financial Rules.

Exceptions to the General Financial Authorisation

29. The power to act of the Chief Executive and their nominees does not include:
- a. Making exceptions from the budget approved by the Cabinet or the Council unless expressly authorised under these Financial Rules
 - b. Authorising any expenditure otherwise than in accordance with the Financial Rules unless expressly authorised to do so by the Council or the Cabinet.
30. The Chief Executive and their nominees acting under these financial authorisations shall ensure that the relevant Portfolio Holder is made aware of all issues of significant public interest or sensitivity before taking action.
31. The Chief Executive and their nominees are not obliged to exercise the powers delegated to them under these instructions and may, whenever they deem it appropriate, consult the relevant Portfolio Holder or refer the matter to the Cabinet for decision.

Table A: Exceptions to the General Authorisation from Cabinet to the Chief Executive and their nominees

To facilitate future revisions, authorisation levels are given in 4 bands:

Bands

Band 1 - Up to £50,000.

Band 2 - From £50,000 to £100,000.

Band 3 - From £100,000 to £200,000.

Band 4 - Over £200,000

Budgets and spending consents required:

32. Spending from a revenue reserve not previously authorised by Cabinet or Council:

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer (nominees require the authorisation of the Chief Executive)

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance (nominees require the authorisation of the Chief Executive).

Band 4 - Cabinet.

33. Virement within the revenue budget of a Chief Officer

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer.

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance.

Band 4 - Cabinet.

34. Virement between revenue budgets of different Chief Officers

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer (nominees require the authorisation of the Chief Executive).

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance (nominees require the authorisation of the Chief Executive).

Band 4 - Cabinet.

35. Transfer of provision between capital budgets in approved capital programme

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer (nominees require the authorisation of the Chief Executive)

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance (nominees require the authorisation of the Chief Executive).

Band 4 - Cabinet.

36. Carry forward of under-spending in revenue budgets from one year to the next

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer (nominees require the authorisation of the Chief Executive)

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance (nominees require the authorisation of the Chief Executive).

Band 4 - Cabinet.

37. Use of contingency provisions to finance supplementary estimates

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer (nominees require the authorisation of the Chief Executive).

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance (nominees require the authorisation of the Chief Executive).

Band 4 - Cabinet.

38. Increase in cost of a capital scheme in approved capital programme and authorised to proceed

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer (nominees require the authorisation of the Chief Executive).

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance (nominees require the authorisation of the Chief Executive).

Band 4 - Cabinet.

39. Writing off irrecoverable sums :

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer.

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance.

Band 4 - As for band 3.

40. Any actions outside of Financial Rules or Finance Operational Procedures

Band 1 - Chief Finance Officer.

Band 2 - Chief Finance Officer.

Band 3 - Chief Finance Officer.

Band 4 - As for band 3.

41. New or substituted capital schemes

Band 1 - Cabinet.

Band 2 - Cabinet.

Band 3 - Cabinet.

Band 4 - As for band 3.

42. Any actions not in accordance with Council policy or any resolution of the Cabinet

Band 1 - Cabinet.

Band 2 - Cabinet.

Band 3 - Cabinet.

Band 4 - As for band 3.

Grants, loans, guarantees and financial assistance

43. Renovation and other housing specific grants under the Housing Grants Financial Policy

Band 1 - Chief Executive or their nominee may act.

Band 2 - Chief Executive or their nominee may act in consultation with Chief Finance Officer .

Band 3 - In consultation with Portfolio Holder for Finance and Chief Finance Officer.

Band 4 - Cabinet

Other grants, loans, guarantees and financial assistance

44. Renovation and other grants under the Housing Grants Financial Policy

Band 1 - Chief Finance Officer.

Band 2 - Cabinet.

Band 3 - Cabinet.

Band 4 - Cabinet.

Land and Property

45. Authorising disposal by lease not previously authorised by Council or Cabinet. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Chief Executive or their nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

46. Approving terms for grant or renewal of leases or any other property transaction of Council land or buildings and the settlement of rent reviews. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Chief Executive or their nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

47. Authorising any other property transactions relating to the Council's land and approving terms including renewals. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Chief Executive or their nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

48. Authorising the acquisition by lease of land or buildings and approval of terms. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Chief Executive or their nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

49. Forfeiture of leases and tenancies or serving notice to quit or similar to obtain vacant possession. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Chief Executive or their nominee may act.

Band 2 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 3 - Cabinet.

Band 4 - As for band 3.

50. Appropriation from one statutory function to another. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Chief Executive or their nominee may act.

Band 2 - As for band 1.

Band 3 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 4 - Cabinet.

51. Authorising disposal by sale not previously authorised by Council or Cabinet.

Band 1 – Chief Executive or their nominee may act.

Band 2 - As for band 1.

Band 3 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 4 - Cabinet.

52. Authorising the acquisition by purchase of land or buildings and approval of terms.

Band 1 - Chief Executive or their nominee may act.

Band 2 - As for band 1.

Band 3 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 4 - Cabinet.

53. Dilapidations claims and settlement including authorising the service of notice, actioning claims and settlement of works and dilapidation or payment in lieu. In this section, land values are the annual rent or proposed annual rent (and not the total amount of rent).

Band 1 - Chief Executive or their nominee may act.

Band 2 - As for band 1.

Band 3 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 4 - Chief Finance Officer, and Chief Legal Officer in consultation with Portfolio Holder for Finance.

54. Where the sale is other than by acceptance of the highest tender

Band 1 - Chief Finance Officer.

Band 2 - As for band 1.

Band 3 - Chief Finance Officer and Chief Legal Officer in consultation with Portfolio Holder for Finance.

Band 4 - Cabinet.

Management Consultancy

55. As defined in paragraph 18 above.

Band 1 - The Chief Executive may act (nominees require the authorisation of the Chief Executive).

Band 2 - Chief Finance Officer (nominees require the authorisation of the Chief Executive).

Band 3 - Chief Finance Officer in consultation with Portfolio Holder for Finance (nominees require the authorisation of the Chief Executive).

Band 4 - As for band 3.

Financial Rules Part 4: Delegation of Financial Authorisations from the Chief Executive through Chief Officers to Budget Managers

General Authorisations

56. The Chief Executive has overall executive responsibility for the Council's activities but shall, as far as reasonably practicable, delegate financial responsibilities through the Chief Officers to Budget Managers as set out in the Financial Rules Part 1 paragraph 13(f)
57. The Chief Executive authorises Budget Managers to commit expenditure for the management and administration of the Council's assets, operations, and staff, where the cost/expenditure:
- a. Is in accordance with and for the implementation of Council policy and any resolution of the Cabinet, and
 - b. Can be met from allocated revenue or capital budgets, or reserves, and
 - c. Is within the provisions of these Financial Rules, and
 - d. Is within the scheme of financial delegation of their Chief Officer as described in the Financial Rules Part 1 paragraph 13(f).

Exceptions to General Authorisations

58. Budget Managers act as nominees of the Chief Executive. Therefore, **Budget Managers must comply with the exceptions set out in Part 3 Table A.** For these exceptions the Budget Manager must obtain the required approval prior to commitment of the expenditure.
59. The detailed application of these authorisations is set out in the Finance Operating Procedures.
60. Different procedures and authorisation requirements apply to contracts for goods, works, and services. These are detailed in the Finance Operating Procedures Part 2.