

Article 14 – Finance, Contracts, Land Disposal and Legal Matters

(Section revised April 2009)

References:

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

Part VIII, Local Government Finance Act 1988

14.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

14.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of the Constitution.

14.03 Legal Proceedings

The Head of Legal 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 Head of Legal considers that such action is necessary to protect the Council's interests.

The Head of Legal has delegated powers to authorise officers to appear in court on the Council's behalf.

14.04 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 Head of Legal 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 in the course of the discharge of an executive function shall be made in writing. Subject to the Contracts 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 one officer.

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 Director of Corporate Governance
3. the Head of Legal
4. any Chief Officer of the Council concerned with the matter to which the document relates: or
5. any officer authorised in writing by such Chief Officer.

14.05 Common Seal of the Council

Common Seal

The Common Seal of the Corporation shall be kept in a safe place and be secured by two different locks. The Mayor shall have the custody of the key of one lock and the Head of Legal shall have the custody of the key of the other.

Sealing and Execution of Documents

The Chief Executive, the Director of Corporate Governance, the Head of Legal or the Democratic Services Manager shall have authority:-

1. to affix the Common Seal to any deed or document in the presence of the:-
 - Mayor or the Deputy Mayor; or
 - The Leader of the Council; and
2. to execute any deed or document not required by law to be under seal which is necessary to effect the decisions of the Council.

Members and Officers to Sign Documents Executed under Seal

All deeds, instruments and writings which may require the Common Seal to be affixed shall also be signed after the sealing by the:-

1. Mayor or the Deputy Mayor; or
2. Leader of the Council; and the
3. Chief Executive; or
4. Director of Corporate Governance; or
5. Head of Legal; or
6. Democratic Services Manager.

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Interests – Where it becomes apparent to a Member or Officer involved in the Sealing and Execution of Documents, that a personal and prejudicial interest exists in a matter, a declaration of the nature and existence of that interest should be made as soon as possible. The Member or Officer shall not be involved in the sealing and execution of any documents where such an interest exists.

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 Head of Legal or Director of Corporate Governance. The facsimiles or printed names must be authenticated by entries in the book referred to below and initialled by the Chief Executive, the Director of Corporate Governance, the Head of Legal or the Democratic Services Manager:-

1. stock certificates and transfers;
2. grants of rights of burials;
3. superannuation fund documents.

Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Chief Executive, Director of Corporate Governance, Head of Legal or the Democratic Services Manager in a book to be provided for the purpose.

14.06 Disposal of land and real property

Every disposal of land and real property made by the Council will comply with the Management of Real Estate, Property and Land rules set out in Part 4 of the Constitution.