

## Spend Control Policy

### Introduction

1. On 29 November 2023, the Council's Section 151 Officer issued a report under section 114(3) of the Local Government Finance Act 1988 (the Act). As a result, spending controls now apply to all new expenditure, without exception, and the process outlined in this document must be followed by all colleagues with immediate effect.
2. Section 115 of the Act states that the Section 151 Officer may only approve spending that:
  - Prevents the situation that led to the issuance of report worsening
  - Improves the situation
  - Prevents it from recurring
3. The Section 151 has taken the view that the financial implications set out above need to be balanced against the Council's statutory duties, particularly in relation to safeguarding and homelessness. The Section 151 Officer will, therefore, consider approving 'allowable spending' in accordance with this policy.
4. 'Allowable spending' will be approved where the Section 151 Officer is satisfied that spending is either:
  - Essential to meet the Council's legal duties, and only to the minimum levels required to meet the duty, or meet existing legal commitments
  - Externally funded spending, where the Council would lose external funding if approval were not given, and
  - Spend where there is a robust business case will be considered by the Spend Control Board.
5. No other spending will be approved.

## **What is essential spending to meet the Council's statutory duties or existing legal commitments?**

6. Essential spending of this sort will relate to a clear (and referenced) legal duty, including regulatory requirements (such as essential health and safety requirements) and existing legal commitments. This means:
- Existing staff payroll and pension costs
  - Expenditure required through existing legal agreements and contracts
  - Payments for goods and services which have already been received
  - Urgent expenditure required to safeguard vulnerable citizens

## **What constitutes externally funded spend?**

7. Externally funded spend, is fully funded by an external grant or funding source and does not impact the general fund. (e.g. Dedicated Schools Grant).
8. Spend that is funded from income generating services under contract to maintain the service and income. (e.g. Commercial Waste) – but only where the cost of exiting the contract will cost more than the spend request.
9. If the spend is partly funded by external income, then as this impacts the general fund there will need to be a robust business case presented to Spend Control Board as set out below.

## **Business cases**

10. Business cases will be considered under this policy if they:
- will deliver a cashable saving compared to current spend within a quantified time period
  - involves some General Fund and income (grant) where the business case shows that delaying spend will lead to significantly more expenditure in the short to medium term - 1-3 years
  - involved recruitment to non-essential posts where costs of delaying recruitment would be higher than costs of the post
  - evidence that the service prevents a more expensive statutory service
  - involve capital decisions that reduce borrowing requirements and/or provide capital receipt

- prevent the loss of an external funding source (e.g. PFI grant from central government) that is used to pay for statutory services
- generate an income stream for the Council above the cost of the expenditure
- mitigates additional commercial risk to the Council.
- ***See Appendix 1 for examples of types of spend***

### Process for Spend Approval

11. The spend approval process applies to new spending requests of any value, as listed above in section 1. A new Spend Control Board will oversee all spend decisions.

12. The Council is now prevented, without the explicit agreement of the Section 151 Officer, from entering into any new agreement, contract or commitment of expenditure until instructed otherwise by the Section 151 Officer. This means that:

- **All** existing spend delegations in the constitution or through delegation of powers through decisions are now superseded by the 114 report. Only the Section 151 Officer can approve new spend. This applies to all spend regardless of value or route, to be clear this includes all purchase card spend
- No officer, Councillor, committee or board can approve spend without the prior approval of the Section 151 Officer through the Spend Control Board
- Further details of the spend control process are outlined below

### Spend Control Board

13. The purpose of the Spend Control Board is to review requests for new spending processes and advise the Section 151 Officer about the decisions he has to make.

14. The membership of the Spend Control Board comprises:

- Section 151 Officer (Chair and decision maker)
- Head of Paid Service
- Deputy Section 151 Officer

- Monitoring Officer
- Director of Commercial Procurement and Contract Management
- Head of Procurement
- Director of HR and EDI

15. The Spend Control Board will meet daily, and its decisions will be published weekly. A copy of the decision will be returned to the Head of Service as soon as possible after each board

### **Spend Control Advisory Panel**

16. The purpose of the Spend Control Advisory Panel is to triage spend requests and provide advice to Spend Control Board and ensure the smooth running of spend control policy including identifying and deploying staff resources. The Panel will also review the spend control policy and recommend changes to the Spend Control Board.

17. Membership of the Panel will comprise:

- Deputy section 151 officer
- Head of Procurement
- Commercial Systems and Strategy Manager
- Interim Business and Performance Manager
- Head of Legal

18. The Panel will meet at least daily.

### **Process for DLT approval**

19. Directorate Leadership Teams will need to review all spend requests prior to processing for Spend Control Board approval. This will require regular directorate spend panels which would be anticipated to occur on a daily basis.

20. DLT Panels must act as a triage for requests ensuring that only spend that meets the criteria as laid out above is recommended for approval at Spend Control Board.

## Emergency Spend Provision

21. Emergency spend is expenditure that is immediately required to protect citizens or staff from immediate harm, that cannot be delayed to allow SCB to review. This must be requested via the relevant Corporate Director via email who will endorse the spend request before forwarding to the Spend Control Board, for retrospective approval. This will allow the initial spend to be incurred and appropriate action taken to protect citizens and staff.
22. Spend Control Board will review the information at the next available Board and confirm whether the spend was in line with this policy or not. SCB could determine that the expenditure must stop or that this can continue until such time as a suitable long-term alternative is approved.
23. Only emergency expenditure to protect citizens and staff from immediate harm will be approved through this route. Any expenditure that is endorsed through this route that does not meet the emergency criteria will be a breach of this policy and could be a disciplinary matter.

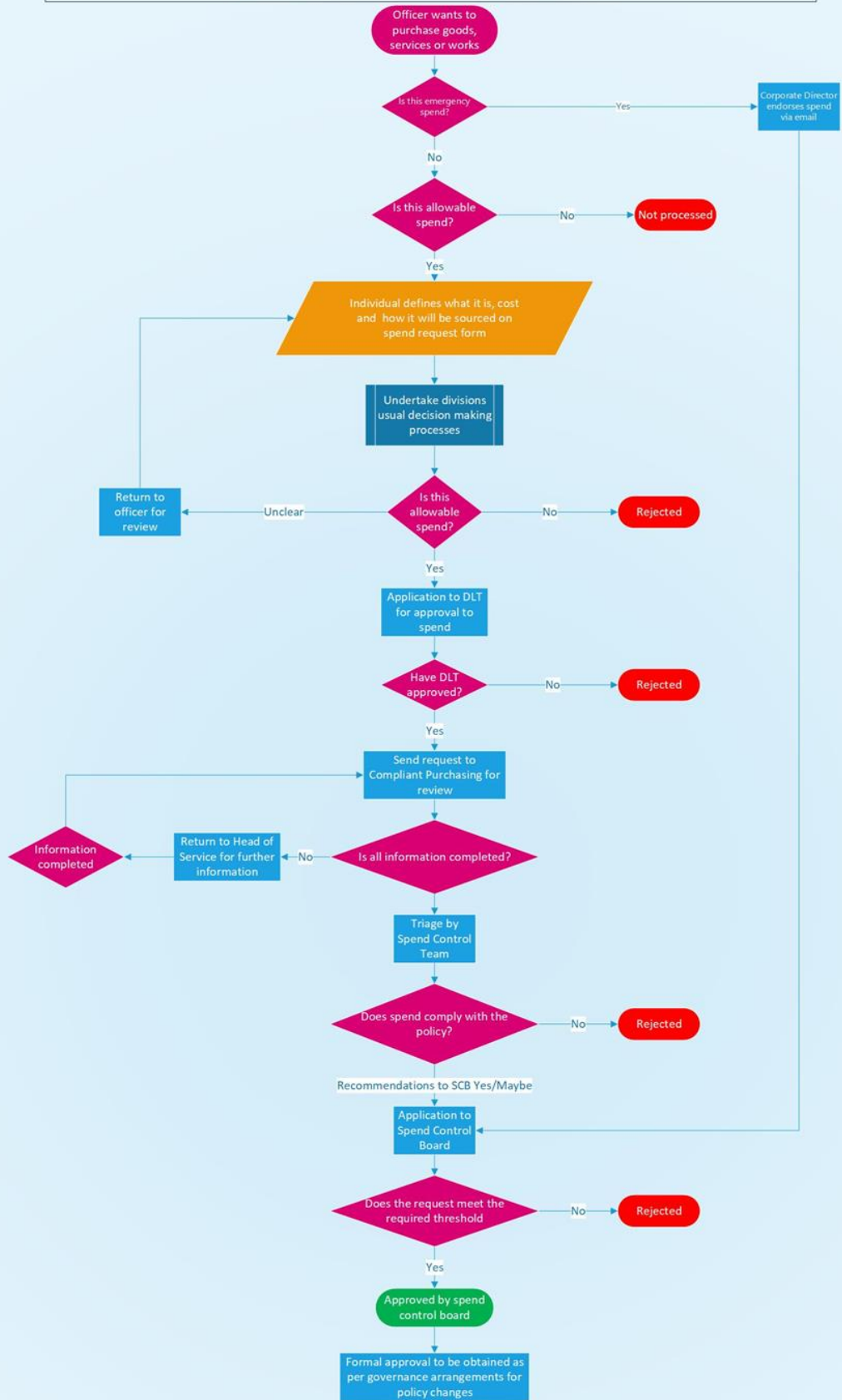
## 24. Out of Hours

- Services which provide out of hours support such as Temporary Accommodation, Adults and Children's Social Care will need to seek retrospective approval for spend decisions, on a proviso that they follow the same process in determining the need for spend up which has been approved by the Corporate Director / Director in writing.
- Spend Control Board should be presented with the decision on the first working day after the 'out of hours' decision e.g.
  - if the out of hours was over a weekend, then services are expected to bring the decision for approval to Monday's Spend Control Board
  - if the out of hours decision was during the week and between 5pm to 9am then the service is required to bring the
  - decision for approval to the next available Spend Control Board meeting.

## Spend Control Process

25. A flowchart showing how the process works is set out on the next page.

**Spend Control Process under S114 – all decision making powers have been removed and this process must be followed for all financial decisions**



## Process changes in line with Financial Intervention Strategy

26. The purchase to pay processes will be changed as outlined in the Financial Intervention Strategy. The following changes to process will need to be followed by all officers without exception.

- **Contract Purchase Agreement**

- i. The generic Contract Purchase Agreement will be switched off and requests need to be made via Compliant Purchasing for new specific CPAs to be set up. CPAs related to new contracts will only be approved when the following are all evidenced
  1. Spend Control Board have approved the expenditure
  2. Contracts have been procured in line with Article 18 Contract Procedure Rules
  3. Relevant approval has been sought in line with the Constitution
- ii. Any CPA requests without the relevant approval will be rejected and reported to the relevant Corporate Director.
- iii. The CPA request process can be accessed via the following link [Procurement \(nottinghamcity.gov.uk\)](https://procurement.nottinghamcity.gov.uk).

- **Purchase Orders**

- i. Unless an exemption to the use of Purchase Orders has been received from the Spend Control Board then all invoices must have a purchase order number on them and be presented directly to [nccinvoices@emss.org.uk](mailto:nccinvoices@emss.org.uk)
- ii. Any invoice presented to EMSS without a PO number will be rejected and returned to the supplier.
- iii. All invoices sent to EMSS must be in a PDF format with only one invoice per document. An email can contain more than one invoice but must be a separate PDF for each.
- iv. All requests for payment that do not have a PO number or have a formal exemption from this policy will be rejected.
- v. Goods receipting must only be done when the service has been received, goods receipting in advance must stop.

- vi. Requests for a Purchase Order after receipt of the invoice is a breach of the Constitution and will be reported to the relevant Corporate Director.
  - vii. There will be exemptions from this policy which will be approved by Spend Control Board on submission of an exemption request. As per Appendix 2.
- **Purchase Card Spend**
  - i. With immediate effect all purchase card spend will need prior approval before authorising by the card holder. Any spend that does not have prior approval and is not reviewed will be referred to the relevant Corporate Director as a breach of this policy. Cards used without prior approval will be put on hold whilst they are reviewed.
  - ii. A review of all purchase cards will be undertaken to identify which cards are required for essential spend. All non-essential spend will be stopped and therefore cards will be stopped for colleagues not undertaking essential spend.
- **Travel expenditure**
  - i. Travel expenditure on trains or hotel bookings must be booked through Click travel and the cheapest suitable option taken. Train tickets and hotels must not be purchased through purchase cards for staff travel. Approvers will be reviewing all travel spend before authorising.
  - ii. Travel to award ceremonies, events and conferences is now not permitted in any circumstance. Only essential work-related travel can be approved.
  - iii. Train travel and hotel bookings must not be claimed via payroll expenses except for in exceptional circumstances ie emergency work travel requirement out of normal office hours. This must be approved by the Head of Service or Director.



- **Impact upon contracts**

- i. Potential new contracts**

1. As all non-essential spend has stopped all contracts currently being sourced will need to be reviewed through the Spend Control Board. Any contracts awarded after this policy is implemented without approval of the Section 151 Officer will be a breach of policy.
2. Regardless of the process or the stage in that process all sourcing will be reviewed against the criteria in this policy. Procurement will advise on the next steps in the process and when the spend should be reviewed by the Spend Control Board.
3. No framework call off, direct award, request for quote or tender will be able to be completed without the prior approval of the Spend Control Board. The approval should be sought at the earliest opportunity regardless of the stage in the process no new public notice will be approved without Spend Control Board approval.

- ii. Contract Variations and Extensions**

1. No new contract variation or extension can be approved that incurs additional cost without Spend Control Board approval for the spend. Including extensions that have been included as part of the original contract.
2. Any variation that is not formally signed that will increase cost will need to be approved by the Spend Control Board before formalising within the contract.

- iii. Review of existing contracts**

1. All existing contracts must be reviewed by the Contract Manager to identify any options for reducing cost through anyone of the following:
  - a. Is the contract essential if not can it be terminated without incurring additional cost

- b. Variation to the contract by reducing activity levels, quality or price
          - c. Ensuring volume discounts are managed in line with the contract
          - d. Is there alternative supply options that could be considered at lower cost
2. Engage the Commercial Hub to ensure any contractual changes are compliant with Public Contract Regulation 2015, Concession Contract Regulations 2016 or Utilities Contract Regulations 2016. Please note Article 18.110 requires the Head of Procurement or their nominated representative to approve any contract variation and this will be enforced any identified breach will be reported to the relevant Corporate Director.

#### **iv. Financial Recovery Plan**

1. Review of existing revenue spend – what should be stopped in line with criteria laid out in section 1 above?
2. All revenue spend needs to be reviewed by directorates to identify any spend that is currently in process that would not be deemed essential. Any non-essential spend should be stopped wherever possible. This includes contracted spend see above.
3. This needs to include current and future years expenditure and links to MTFP plans for 2024/25.
4. Review of capital programme – including reducing borrowing costs. Can we stop or delay capital expenditure, reduce costs of borrowing or sell assets currently owned by the Council.
  - a. All spend from capital will need to be reviewed including committed programmes to identify what can be paused or stopped without significant additional cost.
  - b. Finance will undertake a review of borrowing to determine whether there any options to refinance and reduce interest costs.

- c. Undertake a review of existing reserves and capital receipts to identify options for reducing the deficit.
- d. Review all assets to identify further assets that can be sold and add them to the current planned asset disposals.
- e. The reviews will be led by Finance but will require collective ownership by all members of the Corporate Leadership Team as well as input from Executive Councillors.

### **This policy**

**27.** This policy will remain in place until Full Council have agreed a Recovery Plan to mitigate the current overspend and predicted budget deficit for 2024/25.

Including:

- A clear deliverable plan for reduction in spend in 2023/24 including savings.
- A budget plan for future years that resolves the budget deficit over the next 3 years including detailed achievable savings.

**28.** The Section 151 Officer is able to determine whether the plans are sufficient and achievable, only when they are satisfied will any relaxation of these spend controls be considered. There will need to be significant evidence of delivery in order for these controls to be lifted.

## Appendix 1

### Appendix (i): Examples of essential and non-essential spending:

#### Essential Spending

Statutory Services: These are services that the council is legally obligated to provide and are considered essential. They typically include:

- Education (e.g., schools and special educational needs support)
- Social services (e.g., child protection, adult social care)
- Public safety (e.g., police and fire services)
- Waste collection and management
- Public health services (e.g., public health inspections, disease control)
- Debt Servicing: payments on outstanding loans and debts are essential to maintain the council's financial integrity
- A library service

Staffing for Essential Services: - employee salaries and benefits related to delivering statutory services.

Maintenance and Repairs: - funding for essential infrastructure maintenance and repairs to ensure public safety and service continuity.

Emergency Provisions: - funds set aside for unforeseen emergencies or contingencies that could impact essential services.

#### Non-Essential Spending

Discretionary Services: - these services are not legally required but may enhance the quality of life in the community. Examples include:

- Parks and recreational facilities
- Cultural and arts programs
- Leisure centres and sports facilities
- Library Buildings

New Capital Projects: - investments in new infrastructure or construction projects that are not immediately necessary for public safety or statutory obligations.

Consultancy and Professional Services: - spending on external consultants, advisors, or professional services that are not directly tied to essential services or legal requirements.

Marketing and Promotion: - advertising and promotional expenses that are not critical to the delivery of essential services.

Non-Urgent Capital Expenditures: - capital spending on equipment, vehicles, or technology upgrades that are not immediately required for essential services.

Non-Essential Staffing: - hiring or maintaining personnel for roles not directly related to statutory services, which may include administrative or non-essential positions.

Events and Entertainment: - expenses related to hosting events, conferences, or entertainment activities that are not crucial for service delivery.

Non-Critical Travel and Training: - travel expenses and training programs that are not essential for maintaining statutory services.

## Appendix 2 Exemption Request from No PO No Pay

<b>Exemption from raising Purchase Orders</b>
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<b>Section 1: Request Originator</b>	
Name:	
Signature:	
Department:	
Date:	

<b>Section 2: Subject</b>	
What spend needs exemption from No Po No Pay policy	
Why is this exemption required? Why can't Purchase Orders be supplied?	

<b>Section 3: Proposed area</b>	
What type of provision is involved	
Total annual value:	
Duration of exemption:	

<b>Section 4: Background &amp; Justification</b>	
Provide an overview and explain why an exemption request is necessary?	
Explain the payment process that will be used?	
What other options have been explored?	
What would the impact be if this request wasn't approved?	

<b>Section 5: Forward Planning</b>	
Will there be an ongoing requirement beyond the expiry date of this request, if it is approved?	

<b>Section 6: Commercial Hub Comments</b>
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<b>Head of Procurement</b>	
<b>Name:</b>	
<b>Signature:</b>	
<b>Date:</b>	
<b>Comments:</b>	
<b>Recommendation:</b>	

<b>Section 10: Spend Control Board Approval / Rejection</b>	
<b>Section 151 Officer</b>	
<b>Name:</b>	
<b>Signature:</b>	
<b>Decision</b>	Approved/Rejected
<b>Reasons for decision:</b>	
<b>Subject to the following conditions.</b>	
<b>Date:</b>	