



**Neudd y Cyngor  
Y Rhadyr  
Brynbuga  
NP15 1GA**

**County Hall  
Rhadyr  
Usk  
NP15 1GA**

**2 Gorffennhaf 2014**

**2<sup>nd</sup> July 2014**

**Notice of meeting:  
Extraordinary Meeting of  
Monmouthshire County Council**

***Hysbysiad o gyfarfod:  
Cyfarfod Anghyffredin Cyngor Sir Fynwy***

**Tuesday 8<sup>th</sup> July 2014, at 2.00pm  
Council Chamber, County Hall, Rhadyr, Usk**

***Dydd Mawrth 8 Gorffennhaf 2014, am 2.00yp  
Siambr y Cyngor, Neuadd y Cyngor, Y Rhadyr, Brynbuga,***

*Prayers will be said prior to the Council meeting at 1.55pm. All members are welcome to join the Chairman for prayers should they wish to do.*

**AGENDA**

*The Council welcomes contributions from members of the public through the medium of Welsh or English. We respectfully ask that you provide us with adequate notice to accommodate your needs.*

<b>Item No</b>	<b>Item</b>
1.	<b>Apologies for absence.</b>
2.	<b>To receive declarations of interest.</b>
3.	<b>To review Monmouthshire County Council constitution (copy attached).</b>

**Paul Matthews  
Chief Executive  
Prif Weithredwr**

## **Aims and Values of Monmouthshire County Council**

### **Sustainable and Resilient Communities**

#### **Outcomes we are working towards**

##### **Nobody Is Left Behind**

- Older people are able to live their good life
- People have access to appropriate and affordable housing
- People have good access and mobility

##### **People Are Confident, Capable and Involved**

- People's lives are not affected by alcohol and drug misuse
- Families are supported
- People feel safe

##### **Our County Thrives**

- Business and enterprise
- People have access to practical and flexible learning
- People protect and enhance the environment

##### **Our priorities**

- Schools
- Protection of vulnerable people
- Supporting Business and Job Creation

##### **Our Values**

- **Openness:** we aspire to be open and honest to develop trusting relationships.
- **Fairness:** we aspire to provide fair choice, opportunities and experiences and become an organisation built on mutual respect.
- **Flexibility:** we aspire to be flexible in our thinking and action to become an effective and efficient organisation.
- **Teamwork:** we aspire to work together to share our successes and failures by building on our strengths and supporting one another to achieve our goals.

# Nodau a Gwerthoedd Cyngor Sir Fynwy

## Cymunedau Cynaliadwy a Chryf Canlyniadau y gweithiwn i'w cyflawni

### Neb yn cael ei adael ar ôl

- Gall pobl hŷn fyw bywyd da
- Pobl â mynediad i dai addas a fforddiadwy
- Pobl â mynediad a symudedd da

### Pobl yn hyderus, galluog ac yn cymryd rhan

- Camddefnyddio alcohol a chyffuriau ddim yn effeithio ar fywydau pobl
- Teuluoedd yn cael eu cefnogi
- Pobl yn teimlo'n ddiogel

### Ein sir yn ffynnu

- Busnes a menter
- Pobl â mynediad i ddysgu ymarferol a hyblyg
- Pobl yn diogelu ac yn cyfoethogi'r amgylchedd

### Ein blaenoriaethau

- Ysgolion
- Diogelu pobl agored i niwed
- Cefnogi busnes a chreu swyddi

### Ein gwerthoedd

- **Bod yn agored:** anelwn fod yn agored ac onest i ddatblygu perthnasoedd ymddiriedus
- **Tegwch:** anelwn ddarparu dewis teg, cyfleoedd a phrofiadau a dod yn sefydliad a adeiladwyd ar barch un at y llall.
- **Hyblygrwydd:** anelwn fod yn hyblyg yn ein syniadau a'n gweithredoedd i ddod yn sefydliad effeithlon ac effeithiol.
- **Gwaith tîm:** anelwn gydweithio i rannu ein llwyddiannau a'n methiannau drwy adeiladu ar ein cryfderau a chefnogi ein gilydd i gyflawni ein nodau.





**SUBJECT: Review of Constitution**  
**MEETING: Council**  
**DATE: 8 July 2014**  
**DIVISION/WARDS AFFECTED: All**

## 1. PURPOSE:

Section 37 of the Local Government Act 2000 provides that a local authority operating executive arrangements must prepare and keep up to date a document (the constitution) which contains:

- (a) such information as the Secretary of State may direct,
- (b) a copy of the authority's standing orders for the time being,
- (c) a copy of the authority's code of conduct for members and
- (d) such other information (if any) as the authority consider appropriate.

The Council's first constitution was agreed and published in 2000. Since then, a number of amendments consequent upon legislative changes and to reflect operational experience and governance changes such as the development of Area Committees have been made following report by the Monitoring Officer.

Over the past two years, Monitoring Officers in Wales have collaborated in a revision of a model constitution for consideration by their respective authorities. Members are asked to consider the adoption of suitable elements by way of modification of the existing constitution which has not benefitted from an overall review since 2002.

Within the existing Constitution, this report looks in particular at the Articles (pages 1 to 39), the Rules of Procedure (pages 91 to 106), the Executive and Select Procedure Rules (pages 119 to 130) and the Officer Employment Rules (pages 180 to 185) against some suggested amendments. A review of the remaining sections will be the subject of further reports to council.

## 2. RECOMMENDATIONS:

2.1 Members note and accept the current provisions of the constitution reflecting the amendments agreed hitherto and set out at Appendix A.

2.2 Members consider Appendix B and its suggested amendments with a view to any substantive changes being incorporated into the existing Constitution (Appendix A). Specific issues requiring a decision are highlighted in the Key Issues section below.

2.3 That until the Review of the Constitution is complete (to include the Scheme of Delegation, Financial Standing Orders, and various officer and member protocols), the continuing *format* of the constitution be as at Appendix A incorporating any substantive amendments agreed by Council.

## 3. KEY ISSUES:

3.1 The Constitution is a comprehensive exposition of the rules by which the Council conducts its business. It reflects both statutory requirements and the council's

own preferences for improving the efficient discharge of its functions for the benefit of members of the public. It was originally adopted in May 2002 following consideration of a number of models originally recommended by the National Assembly for Wales pursuant to the Local Government Act 2000. Since then, a number of amendments have been made, largely to reflect operational experience but without any major changes, with the exception of, perhaps the Contract Standing Orders (now Contract Procedure Rules), the Officer Employment Procedure Rules and to reflect the 2008 revision of the Members Code of Conduct. The scheme of delegation has also been updated to reflect changes in legislation and the council's senior officer structure.

3.2 The new model reflects changes introduced by the Local Government Democracy (Wales) Act 2013 which gives authorities the opportunity to consider, for example, dividing the current role of the Chairman of the Council between a new Civic Chair (and vice chair) and a Presiding Officer (and deputy). In terms of the Constitution, the Act also provides for the Audit Committee to be politically balanced, allows joint Standards Committees to be appointed and requires registers of members' interests to be published electronically.

3.3 The reference to remote attendance in the Rules of Procedure is intentionally blank. The 2013 Act has reduced the quorum necessary for remote attendance to 30% although this will not prevent the Council requiring a higher number of members to be present at a meeting. The Welsh Government has only recently issued statutory guidance on remote attendance and members will be required to take this into account when considering the issue. A report on this will follow shortly.

3.4 Members will also be asked to consider the new power to delegate the exercise of executive functions to non-executive members. (s.56 of the Local Government Measure 2011) and the recent (1<sup>st</sup> July) standing order amendment regulations on various employment and other issues including the requirement to advertise externally all vacancies for chief officer posts with an annual salary above £100k.

3.5 The current intention is not to include a number of local procedures and protocols, including, for example the recently agreed Scrutiny and Executive Protocol which can stand separately from the formal constitution. Planning Officers will be looking at the model planning protocol although our current version was agreed as recently as March 2011.

3.6 Appendix B reflects, to a degree, the views expressed by the Democratic Services committee and some members who attended a seminar in March. I have highlighted those aspects upon which council may wish to reflect further or which appear to have a consensus for change. Views (and a formal decision) on each of the following aspects are requested:

**NOTE: all references are to Appendix B**

**3.1.1 (c)**

Following the views expressed by members at the recent seminar, the new draft includes for **five** clear days' notice of agenda items for all meetings. The current provision is for the statutory **three** days. This amendment would require consequential changes to the notice required for submitting members' questions and motions.

## **4.2**

Members at the seminar suggested the addition of the Armed Forces Covenant to the Policy Framework

## **4.7.4**

The 2013 Act allows councils to provide for the appointment of a member as “Presiding Officer” to undertake the chairing role at meetings of the full Council. Under that arrangement, the “Chair” would retain the ceremonial role. Both positions would attract a senior salary subject to the overall cap.

## **4.13**

Neither the Political Leadership Group nor the majority of members at the recent seminar supported the alternative proposition that would limit the duration of a meeting to, say, three hours with an automatic adjournment of remaining items of business.

## **4.15**

The highlighted extract should assist the chairing of Council meetings in particular. However, it was not generally supported by many members who attended the recent seminar.

## **4.19.2**

Neither the Democratic Services Committee nor the Political Leadership Group, not to mention most members at the recent seminar supported the alternative proposition to the effect that:

*“A Member may ask only one question under Rule 4.19.2 or 4.19.3 except with the consent of the Chair of the Council, committee or sub-committee. The maximum number of questions that may be asked at any meeting of the Full Council is eight and if the number of questions exceeds eight the questions to be asked shall be determined by ballot to be conducted by the Head of Democratic Services.”*

## **4.19.9**

In future, questions will be taken as read.

## **4.20.5**

The original draft limited motions to no more than one per member. That has not been supported by the majority of members consulted to date. As an alternative members may wish to consider a more generous restriction.

Similarly, members have not generally supported the possibility of limiting the overall time allowed for the consideration of motions on notice.

## **4.32**

I have suggested that this might be at the absolute discretion of the Chair.

## **4.35**

This is a new provision broadly welcomed by members. It would allow political groups to nominate substitutes up to an hour before meetings commence.

#### 5.4

This accommodates our current political arrangement.

#### 5.6

Members may wish to consider the following additional suggestion which has not been the subject of prior consultation:

##### *“Executive Support Members*

*Other Councillors may, from time to time, be designated by the Leader as Executive Support Members. Such Councillors will not be a Member of the Cabinet and will not participate in Executive Decision making, but may work closely with a Cabinet Member. He/she will not be a Member of the Select Committee relating to the specific responsibilities of the Cabinet Member he/she is assisting or any other areas to which they are assigned.*

*An Executive Support Member may support the Cabinet Member through the delegation of tasks as agreed for his/her area of responsibility, including attending/chairing meetings; speaking/opening events; reading and commenting on papers; meeting Officers; agreeing press releases./comments and carrying out interview; representative the Council on appropriate groups. An Executive Support Member will not, however, have delegated powers and will not be entitled to speak or vote at Cabinet Meetings or Cabinet Committee Meetings nor deputise for the Cabinet Member when the Cabinet Member is called to appear at the Select Committee.”*

#### 7.25.1 (c) and (h)

This is effectively our current position with the removal only of the unworkable financial threshold. The alternative proposals set out below were largely rejected by those members offering a view:

*In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:*

- 1. A Select Committee may only call-in a total of **[three]** decisions per **[three]** month period;*
- 2. Three Members **of a Select Committee** (from **at least two political groups**) are needed for a decision to be called in;*
- 3. Once a Member has signed a request for call-in under this paragraph, he/she may not do so again until the period of **three** months has expired.*

#### 7.25.1 (j)

If this is to be included, who should adjudicate on “exceptional circumstances”?

#### 7.25.2

Currently our constitution provides for the Head of Paid Service to agree that a proposed decision is both reasonable and urgent.

#### 11.9.6

In particular, this affords the opportunity to allow a chief officer to undertake the shortlisting process where appropriate.

#### **4. REASONS:**



The council has agreed that a review of the constitution should be undertaken.

**5. RESOURCE IMPLICATIONS:**

None specifically identified to date

**6. SUSTAINABLE DEVELOPMENT AND EQUALITY IMPLICATIONS:**

By and large the proposed changes improve the accessibility and transparency of the conduct of the council's business.

**7. CONSULTEES:**

As well as being considered at a member seminar, draft versions of the document attached to this report have been the subject of consultation with:

Leadership Team  
Senior Management Team  
Political Leadership Group  
Democratic Services Committee

**8. BACKGROUND PAPERS:**

Welsh Government Consultation papers on Local Government Measure 2011 and Local Government (Democracy) (Wales) Act 2013

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# **Monmouthshire County Council**

## **Constitution**

**July 2014**

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## CONTENTS

	<b>PAGE NO.S</b>
<b>A. INTRODUCTION</b>	4
<b>B. THE CONSTITUTION</b>	5
<b>Part 1 – Summary and Explanation</b>	6
<b>Part 2 – Articles of the Constitution</b>	
Article 1 – The Constitution	10
Article 2 – Members of the Council	11
Article 3 – Citizens and the Council	13
Article 4 – The Full Council	14
Article 5 – Chairing the Council	16
Article 6 – Select Committees	17
Article 7 – The Executive	21
Article 8 – Regulatory Committees	23
Article 9 – The Standards Committee	24
Article 10 – Area Committees and Forums	25
Article 11 – Joint Arrangements	28
Article 12 – Officers	29
Article 13 – Decision Making	34
Article 14 – Finance, Contracts and Legal Matters	36
Article 15 – Review and Revision of the Constitution	37
Article 16 – Suspension, Interpretation and Publication	38
Schedule 1 – Description of Executive Arrangements	39
<b>Part 3 – Responsibility for Functions</b>	
Responsibility for Functions	40
Scheme of Delegation and Appointment (Officers)	48
<b>Part 4 – Rules of Procedure</b>	
Council Procedure Rules (Standing Orders)	91
Access to Information Procedure Rules	107
Budget and Policy Framework Procedure Rules	115
Executive Procedure Rules	119
Select Procedure Rules	123
Financial Procedure Rules	131
Contract Procedures Rules	146
Officer Employment Procedure Rules	180
<b>Part 5 – Codes and Protocols</b>	
Members’ Code of Conduct	186
Officers’ Code of Conduct	199
Protocol on Member/Officer Relations	217
<b>Part 6 – Schedule of Member Remuneration</b>	
Schedule of Member Remuneration	
<b>Part 7 – Management Structure</b>	
Management Structure	

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# **INTRODUCTION**

## **NEW FORMS OF GOVERNANCE**

Major changes are taking place in the governance of county and county borough councils in Wales. The committee model of member decision – making has been replaced by new constitutions as a result of the Local Government Act 2000. Part II of the Act gives local people a real say in how they are governed and introduces arrangements which will deliver visible accountable Leadership for the Council and the community it serves and provide transparent and efficient decision - making. These changes are part of a wider policy to strengthen local authorities’ ability to deliver effective community Leadership, democratic renewal and continuous improvement in services.

In 2001/02 the Council undertook a major consultation exercise in order to ascertain the views of our electorate and other stakeholders. The response to the consultation was a majority in favour of the Council’s “preferred option” - a Leader and Cabinet system. Under this system:

- the council sets the overall budget and policy framework and is a focus for debate about the performance of the Executive (Cabinet);
- Select Committees advise on policy formulation and hold the Executive to account in relation to specific matters. They may also review areas of council activity which are not the responsibility of the Executive or matters of wider local concern;
- the Cabinet (the “Executive”) makes decisions within this framework. Decisions may be delegated to individuals in the Executive, committees of the Executive, officers, area committees, joint arrangements, other authorities, or contracted out;
- most regulatory decisions continue to be made by committees of the council;
- there is a Standards Committee to promote high standards of conduct and support members’ observation of their Code of Conduct;
- an Audit and Accounts Committee ensures that an effective internal control system is maintained and monitors capital and revenue budgets across the authority.

Except for the ethical framework, these new governance arrangements do not apply to Town and Community Councils. However, such councils are involved in the Standards Committee arrangements.

## **THE FORM OF THE CONSTITUTION**

The constitution provides an important means of enabling councillors, officers, citizens and stakeholders to understand how the council makes decisions and who is responsible for those decisions. Section 37 of the Local Government Act 2000 requires each local authority to prepare, keep up to date and publicise a document known as the council's constitution.

The constitution is at the heart of the local authority's business. It allocates power and responsibility within the local authority, and between it and others. For example, it delegates authority to act to individual officers and enables members of the public to ask questions at area committees and full Council meetings. It also regulates the behaviour of individuals and groups through codes of conduct, protocols and rules of procedure.

The constitution is divided between articles and rules of procedure and associated material. Articles are intended to set the overall framework and in general will not be subject to frequent change. They are about what is to be done and by whom. Procedure rules, codes of conduct and the other material located after the articles are broadly about how the articles will be put into effect. They may be subject to more frequent change, especially as the Council learns from the experience of operating the new constitution.

The Constitution was originally agreed by the Council in May 2002. This latest version incorporating some amendments which have been agreed since then was agreed by the Council at its meeting on **8 July 2014**.

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## Summary and Explanation

### The Council's Constitution

Monmouthshire County Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### What's in the Constitution?

Article 1 of the Constitution describes its purpose in enabling the Council to discharge the commitment set out in the Council's Values and Strategic Policy Aims. (Part 8)

Articles 2 –16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of decisions (Article 6).
- The Executive (Article 7).
- Regulatory Committees (Article 8).
- The Standards Committee (Article 9).
- Area Committees and Forums (Article 10).
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

### How the Council Operates

The Council is composed of 43 councillors elected every four years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of councillors is to the whole

community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year.

### **How Decisions Are Made**

The executive (sometimes referred to as the "Cabinet") is the part of the Council which is responsible for taking most of the major decisions. The executive is made up of the Leader, who is chosen by the Council, and a cabinet of up to 9 councillors whom he/she appoints. The business to be considered by the executive, select committees and the council as a whole is published in the forward work programme. Meetings of the executive, select committees, the council and other committees are open for the public to attend except where personal or confidential matters are being discussed, as defined by the law. The executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole.

### **Overview and Scrutiny**

There are 4 select committees who support the work of the executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding inquiries in public into matters of local concern. These lead to reports and recommendations which advise the executive and the Council as a whole on its policies, budget and service delivery. Select committees also monitor the decisions of the executive. They can 'call-in' a decision which has been made by the executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the executive reconsider the decision. They may also be consulted by the executive or the Council on forthcoming decisions and the development of policy.

In order to bring discussion of council affairs closer to the community four area committees have been created. These cover the whole of the Council area. They involve councillors for each particular area and are held in public. The areas are known as Bryn y Cwm, Central Monmouthshire and Lower Wye and Severnside.

### **The Council's Staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the council.



## **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees, the executive and select committees except where personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time;
- find out, from the forward work programme, what business is to be considered by the executive, select committees or the council as a whole;
- see reports and background papers considered by the executive, the Council and any of its committees and the record of any decisions made by the Council, its committees and the executive, except where they contain personal or confidential information;
- complain to the Council about dissatisfaction with the standard of service provided by the Council. A complaint may be about an action or lack of action by the Council or its staff, affecting the user as an individual or as one of a group of people receiving a service from the Council. A complaint may also be made about a Council policy or about the attitude or behaviour of a member of staff;
- complain to the Public Services Ombudsman for Wales if they think they have suffered injustice because the Council has not followed its procedures properly. However, they are encouraged only to do this after using the Council's own complaints process;
- complain to the Public Services Ombudsman for Wales if they have evidence which they think shows that a councillor or co-opted member of the council has not followed the Members' Code of Conduct; and
- inspect the Council's accounts and make their views known to

the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Monitoring Officer at County Hall, Usk.

The rights of citizens to inspect agendas and reports and attend meetings are set out in the Access to Information Procedure Rules contained in Part 4 of the constitution.

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# **Article 1 – The Constitution**

## **1.01 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## **1.02 The Constitution**

This Constitution, and all its appendices, is the Constitution of the Monmouthshire County Council.

## **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local democracy;
- help councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- provide a means of improving the delivery of services to the community.

## **1.04 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## **Article 2 – Members of The Council**

### **2.01 Composition and eligibility**

- (a) **Composition.** The Council comprises 43 members, otherwise called councillors. Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Boundary Commission in Wales and approved by the National Assembly.
- (b) **Eligibility.** Only registered voters of the county council or those living or working in the area will be eligible to hold the office of councillor.

### **2.02 Election and terms of councillors**

The regular election of councillors will be held on the first Thursday in May every four years except as otherwise directed by the Welsh Government. The next regular elections will take place in 2017. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **2.03 Roles and functions of all councillors**

- (a) **Key roles.** All councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (iv) balance different interests identified within the electoral division and represent the electoral division as a whole;
  - (v) contribute to the continual improvement of council services through the Best Value process
  - (vi) be involved in decision-making;
  - (vii) be available to represent the Council on other bodies; and
  - (viii) maintain the highest standards of conduct and ethics.
- (b) **Rights and duties**
  - (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
  - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.

(iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

#### **2.05 Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

#### **2.06 Allowances**

Councillors will be entitled to receive allowances in accordance with the **Member Remuneration Schedule** set out in Part 6 of this Constitution.

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## Article 3 – Citizens and the Council

### 3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

(a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

(b) **Information.** Citizens have the right to:

(i) attend meetings of the Council, the executive and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

(ii) find out from the forward work programme what decisions will be taken by the executive or Council and which issues the select committees will be considering, and when these matters will be discussed;

(iii) see reports and background papers, and any records of decisions made by the Council and the executive; and

(iv) inspect the Council's accounts and make their views known to the external auditor.

(c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by select committees.

(d) **Complaints.** Citizens have the right to complain:

(i) to the Council itself under its complaints scheme;

(ii) to the Ombudsman about any injustice they have suffered as a result of maladministration, but they are encouraged to use the Council's own complaints scheme first;

(iii) to the Ombudsman where they believe a member or co-opted member of the council has breached the Member's Code of Conduct.

### 3.02 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.

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## Article 4 – The Full Council

### 4.01 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

- Improvement Plan;
- Children and Young People’s Framework
- Young People’s Partnership Strategic Plan;
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Single Education Plan;
- Health and Wellbeing Strategy
- Local Transport Plan;
- Local Housing Strategy;
- Plans and alterations which together comprise the Development Plan;
- Welsh Language Scheme;
- Youth Justice Plan.
- Corporate Plan;
- Policy agreements;
- Asset Management Plan;
- E-Government Strategy;
- Report on Corp Parent for Looked After Children
- Social Care Plan

Together with such other plans and strategies which from time to time the Council may decide should be adopted as a matter of local choice.

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.

(c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the National Assembly for Wales for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### **4.02 Functions of the full Council**

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting a Remuneration Schedule under Article 2.06;
- (h) changing the name of the area,
- (i) making or confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive;
- (l) approve Pay Policy Statements each financial year; and
- (m) all other matters which, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.04 Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the executive.



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## Article 5 – Chairing the Council

### 5.01 Role and function of the Chairman of the council

The Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:

- to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the executive are able to hold the executive and committee Chairmen to account;
- to promote public involvement in the Council's activities;
- to be the conscience of the Council; and
- to attend such civic and ceremonial functions as the Council and he/she determines appropriate
- to carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

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## **Article 6 – Select Committees**

### **OVERVIEW AND SCRUTINY COORDINATION**

#### **Explanatory Comment**

The Overview and Scrutiny function is a central element to this constitution. Overview and Scrutiny (or “Select”) Committees will meet in public to discuss and make recommendations on the development of policies and hold the executive to account for their actions. They will also have a key role in considering other matters of local concern.

The guiding principle for the work of scrutiny is that it should be consensual and positive. The emphasis of the work should be on making a proactive and positive contribution to the development of policy and the discharge of the Council’s functions. This is best achieved by an inclusive process covering members, partners, service users and employees.

#### **6.01 Terms of reference**

The Council will appoint the select committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table. The four committees will allocate between them cross-cutting issues and themes under the guidance of the Coordinating Board.

Where the Strong Communities Select Committee is considering the exercise of powers relating to crime and disorder, the following specific terms of reference will apply:

To review and/or scrutinise decisions made or actions taken in connection with the discharge by the responsible authorities of their crime and disorder functions.

To make reports and recommendations to the Council and/or the Executive with respect to the discharge by the responsible authorities of their crime and disorder functions.

To consider at a meeting of the committee any local crime and disorder matter referred to the committee by a member of the Council.

To decide whether to make a report or recommendations to the Council and or Executive in respect of a local crime and disorder matter, having regard to any representations made by that member as to why the committee should do so.

To notify the member concerned of its decision and the reasons for its decision in any case where the committee decides not to make a report or recommendations in respect of a local crime and disorder matter.

To provide a copy of any committee report or recommendations to the member concerned (in respect of a local crime and disorder matter) and to such responsible and co-operating persons or bodies, as it thinks appropriate.

To review responses to committee reports and recommendations, and to monitor action taken by responsible and co-operating persons or bodies in relation to the discharge of crime and disorder functions by the responsible authorities.

#### **6.02 General role**

Within their terms of reference, select committees:

- i) will review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions; (except any matters specifically identified in the terms of reference of any other select committee)
- ii) will make reports and/or recommendations to the full Council and/or the executive and/or any joint or area committee in connection with the discharge of any functions;
- iii) will consider any matter affecting the area or its inhabitants;
- iv) will exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or any area committees;
- v) may convene joint meetings with overview and scrutiny committees of other councils.
- vi) will assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Assembly Government and Assembly Sponsored Public Bodies on the effectiveness of Council service delivery.

Select Committee	Scope
Strong Communities	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of strong communities. To act as the Statutory Crime & Disorder Committee thereby having a relationship with the Community Safety Partnership, the Police, Fire, Probation etc..
Economy and Development	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of economy and development
Children and Young People	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of children and young people
Adults	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of adults

### 6.03 Specific functions

(a) **Policy development and review.** Select committees may:

- i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area; and
- v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny.** Select committees may:

- i) review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;

ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

iii) question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

iv) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;

v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the select committee and local people about their activities and performance; and

vi) question and gather evidence from any person (with their consent).

(c) **Finance.** Select committees may exercise overall responsibility for the finances made available to them.

(d) **Report.** From time to time, as appropriate, the Chairman of each Select committee will report to full Council on the workings of the committee including future work programmes.

(e) **Officers.** Select committees may exercise overall responsibility for the work programme of the officers employed to support their work.

#### **6.04 Proceedings of select committees**

Select committees will conduct their proceedings in accordance with the Select Procedure Rules set out in Part 4 of this Constitution.

#### **6.05 The Coordinating Board**

The Council will establish a Coordinating Board comprising of the Chairman of each Select Committee, the Leader and Deputy Leader and the Chairman of each Area Committee

6.06 The role of the Coordinating Board will be to manage the political business processes and the relationship between the constituent parts of the Council's political machinery. In particular it will develop a set of protocols to regulate its coordinating role.

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## **Article 7 – The Executive**

### **THE ROLE OF THE EXECUTIVE**

#### **7.01 Role**

The executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

#### **7.02 Form and composition**

The executive will consist of the executive Leader together with at least 2, but not more than 9, councillors appointed to the executive by the executive Leader.

#### **7.03 Leader**

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a councillor; or
- (c) he/she is removed from office by resolution of the Council

#### **7.04 Deputy Leader**

The Leader may, if he/she considers it appropriate to do so, appoint one or more of the other executive members to the position of Deputy Leader. The Deputy Leader, where such an appointment is made, will hold office on the terms listed in Article 7.03 in respect of the Leader but may also be removed from office by the Leader with immediate effect.

#### **7.04 Other executive members**

Other executive members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect two working days after receipt of the notice by the proper officer.

#### **7.06 Proceedings of the executive**

Proceedings of the executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

### **7.07 Responsibility for functions**

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the executive, committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

The executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, by law or under this Constitution.

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## **Article 8 – Regulatory Committees**

### **8.01 Regulatory and other committees**

The Council will appoint the committees set out in the left hand column of the table 2 in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

### **8.02 The audit committee**

(a) The Council will appoint an audit committee to discharge the functions described in column 3 of table 2 in Part 3 of this Constitution and in accordance with sections 81-87 of The Local Government (Wales) Measure 2011.

(b) The Committee shall comprise of Councillor Members (being at least two thirds of the Membership) and at least one Member who is not a Member of the Council (lay Member) and no more than one Member of the Cabinet (which Cabinet Member must not be the Leader).

(c) The Chair of the Audit Committee is appointed by it and cannot be a Member of the Cabinet but can be a lay Member and can only be a Member of an executive group if there are no opposition groups.

(d) Members of the Audit Committee may vote on any matter that falls to be decided by the Committee.



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## Article 9 – The Standards Committee

### 9.01 Standards Committee

The Council will establish a Standards Committee.

### 9.02 Composition

(a) **Membership.** The Standards Committee will be composed of 9 members. Its membership will include:

- i. Five independent members, who are not either a councillor or an officer or the spouse of a councillor or an officer of this council or any other relevant authority as defined by the Act, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001;
- ii. Three county councillors other than the Leader and not more than one member of the executive;
- iii. One member of a town or community council wholly or mainly in the Council's area (a 'community committee member').

(b) **Term of office.**

- i. Independent members are appointed for a period of not less than four nor more than six years and may be reappointed for one further consecutive term not exceeding four years.
- ii. Members of the local authority who are members of the standards committee will have a term of office of no more than four years or the period until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further term.
- iii. A community committee member will have a term of office of no more than four years or the period until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further term.

(c) **Quorum.** A meeting of the standards committee shall only be quorate when:

- i. at least three members, including the Chairman, are present, and
- ii. at least half the members present (including the Chairman) are independent members

(d) **Voting.** Independent members and community committee members will be entitled to vote at meetings:

(e) **Community committee members.** A community committee member shall not take part in the proceedings of the standards committee when any matter relating to their town or community council is being considered;

**(f) Chairing the Committee.**

- i. Only an independent member of the standards committee may be the Chairman.
- ii. The Chairman will be elected by the members of the standards committee for a period not exceeding one year. The Chairman is eligible for re-election.
- iii. The election of a Chairman will be the first item of business for the standards committee at the commencement of each municipal year.

**9.03 Role and Function**

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring and from time to time reviewing the operation of the Members' Code of Conduct and protocols which apply to members of the Council, employees, contractors and other parties or organisations associated with Council activity;
- (e) advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales.
- (h) mentoring and supporting the Council's Monitoring Officer in the discharge of his/her role
- (i) receiving and investigating (where statute permits) reports and complaints relating to the Members' Code of Conduct and protocols approved by the Council from time to time;
- (j) the exercise of (a) to (i) above in relation to the town and community councils wholly or mainly in its area and the members of those town and community councils.
- (k) ensuring the Council's whistle blowing procedures operate effectively
- (l) ensuring the Council's complaints procedures operate effectively and publishing an annual report on the operation of the system.

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## Article 10 – Area Committees and Forums

### 10.01 Area committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council has recognised the need to engage the community in Area Working which in its early stages has involved establishing 3 Area Committees with the following roles and functions:

1. To help the Council shape major proposals affecting the area and to advise the Council about the implications for the area of its objectives, plans and policies.
2. To lead the development of the local community planning process and produce a Community Plan for each area in a way which promotes the council's overall policies as well as safeguarding local interest.
3. To ensure properly co-ordinated services on a local level.
4. To encourage effective collaboration with public, private and voluntary sector partners locally to help the Council meet the aspirations of local people.
5. To provide a forum for views of local communities and to encourage discussions and debate on matters of particular relevance to the area including participating in the process of Best Value Reviews as a formal consultee.
6. To make decisions on matters within the area that have been delegated by the Executive provided those decisions are within the Council's overall policies and budgetary allocations and do not adversely affect other areas of Monmouthshire.

#### **Additional Representation**

Each Area Committee may identify and agree 'communities of interest' within its area from which a representative may be invited to participate at meetings of the committee. Such invitees will not be co-opted members of the committee but may speak (not vote) on matters whenever the press and public are able to attend.

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## **Article 11– Joint Arrangements**

### **11.01 Arrangements to promote well being**

The Council or the executive, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### **11.02 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Subject to (d) below, the executive may appoint executive members and non-executive members to a joint committee and the political balance requirements shall not apply to the appointment of such members.
- (d) The executive may appoint members to a joint committee from outside the executive where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **11.03 Access to information**

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access

to information regime is the same as that applied to the executive.

(c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### **11.04 Delegation to and from other local authorities**

(a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.

(b) The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

(c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### **11.05 Contracting out**

The Council [for functions which are not executive functions] and the executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## Article 12– Officers

### 12.01 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility including overall management responsibility for all Officers.
11.1.3	Principal adviser to the Council on general policy.
11.1.4	The provision of professional and impartial advice to all parties in the decision making process to the Cabinet, to Select Committees, the Full Council and other Committees).
11.1.5	
11.1.6	
11.1.7	Together with the Head of Democratic Services, responsibility for a system of record keeping for all the Authority's decisions (executive or otherwise).
	Representing the Authority on partnership and external bodies (as required by statute or the Council).
	Service to the whole Council, on a politically neutral basis.
	Regulatory Services
	Citizen engagement and Performance Framework
	Finance
	Operations
Chief Officer, Enterprise	Innovation and Enterprise, Developing Communities, Leisure Arts and Tourism and Human Resources.
Chief Officer, Children and Young People	Education Services including schools and continuing education.
Chief Officer, Social Care and Health	Housing, Older Persons, Mental Health Service, Learning disabilities, Children's Services including safeguarding, looked after children and children in need, youth offending, adoption and fostering.

- (c) **Head of Paid Service, Monitoring Officer, Chief Financial Officer and Head of Democracy.** The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Chief Finance Officer	Chief Finance Officer
Head of Democracy & Improvement	Head of Democracy

Such posts will have the functions described in Article 12.02–12.05 below.

(d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at **Part 7** of this Constitution.

#### 12.02 Functions of the Head of Paid Service

(a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

#### 12.03 Functions of the Monitoring Officer

(a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

(b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the executive in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by the Ombudsman and decisions of the case tribunals.

(e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Ombudsman and make reports or recommendations in respect of them to the

Standards Committee.

(f) **Proper officer for access to information.** The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(g) **Advising whether decisions of the executive are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the executive are in accordance with the budget and policy framework.

(h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.

(i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### 12.04 Functions of the Chief Finance Officer

(a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

(e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### 12.05 Functions of the Head of Democracy

(a) to provide support and advice to the authority in relation to its meetings, subject to Article 12.06;

(b) to provide support and advice to committees of the authority



(other than the committees mentioned in paragraph (e)) and the members of those committees, subject to Article 12.06;

(c) to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to subject to Article 12.06

(d) to promote the role of the authority's Select Committees;

(e) to provide support and advice to:

(i) the authority's Select Committees and the members of those Select Committees; and

(ii) the authority's Democratic Services Committee and the members of that committee;

(f) to provide support and advice in relation to the functions of the authority's Select Committees to each of the following:

(i) members of the authority;

(ii) members of the executive of the authority;

(iii) officers of the authority;

(g) to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to Article 12.06;

(h) to make reports and recommendations in respect of any of the following:

(i) the number and grades of staff required to discharge democratic services functions;

(ii) the appointment of staff to discharge democratic services functions;

(iii) the organisation and proper management of staff discharging democratic services functions;

(i) such other functions as may be prescribed by law.

#### **12.06 Restrictions on Post**

The Head of Democratic Services cannot be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.

The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the Select Committees and Democratic Services Committee.

Advice to a Member does not include advice in connection with their role as an executive Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of a Select Committees or Democratic Services Committee.

**12.07 Duty to provide sufficient resources to the Monitoring Officer, Chief Finance Officer and Head of Democracy**

The Council will provide the Monitoring Officer, Chief Finance Officer and Head of Democracy with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**12.08 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

**12.09 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

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## **Article 13 – Decision Making**

### **13.01 Responsibility for decision making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### **13.02 Principles of decision making**

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

An explanation of the reasons for the decision, a record of any personal interest declared and any dispensation to speak granted by the authority's standards committee and details of consultation will be included in the record of each executive decision.

### **13.03 Decisions reserved to full Council**

Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

### **13.04 Decision making by the full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.05 Decision making by the executive**

Subject to Article 13.08, the executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.06 Decision making by select committees**

Select committees will follow the Select Procedures Rules set out in Part 4 of this Constitution when considering any matter.

**13.07 Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

**13.08 Decision making by Council bodies acting as tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

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## **Article 14 – Finance, Contracts and Legal Matters**

### **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 this Constitution.

### **14.03 Legal proceedings**

The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings 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 Services considers that such action is necessary to protect the Council's interests.

### **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 Services 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 £6,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by the Chief Executive (or an officer duly authorised by him/her) or made under the common seal of the council.

### **14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by one member and the Head of Legal Services or some other person authorised by him/her.

# Article 15 – Review and Revision of the Constitution

## 15.01 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### Protocol for monitoring and review of constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of good practice.

## 15.02 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer
- (b) **Change within a mayoral form of executive.** Unless the change relates only to the operation of select committees, any resolution of the full Council to approve a change will have no effect without the written consent of the mayor.
- (c) **Change from a mayoral form of executive to another form of executive or to alternative arrangements, or from alternative arrangements to a mayoral form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the mayor's term of office.
- (d) **Change from a Leader and cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

## **Article 16 – Suspension, Interpretation and Publication of the Constitution**

### **16.01 Suspension of the Constitution**

(a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

(b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

(c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:

- i. The Rules of Procedure relating to meetings of the Council, the Executive, Committees and Sub-committees
- ii. Financial Procedure Rules
- iii. Contract Procedure Rules

### **16.02 Interpretation**

The ruling of the Chairman of council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **16.03 Publication**

(a) The Monitoring Officer will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

(b) The Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

(c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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## **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Select committees) and the Select Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 10 (Area Committees and Forums)
4. Article 11 (Joint arrangements)
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).

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## PART 3 - RESPONSIBILITY FOR FUNCTIONS

### 1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

**Table 1: Responsibility for Local Choice Functions**

Function	Decision making body	Membership	Delegation of functions
1. Any functions under a local Act other than a function specified or referred to in Schedule 1 of the Local Authorities executive arrangements (Functions and Responsibilities) (Wales) Regulations 2007 as amended	Executive	7 Members	Relevant executive member
2. The determination of an appeal against any decision made by or on behalf of the authority (where a right of appeal exists)	Council	3	Appeals Panel
3. Functions in relation to the revision of decisions made in connection with claims for housing benefit and for appeals against such decisions under section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000	Council	43	Monitoring Officer
4. The making of arrangements in relation to appeals against the exclusion of pupils in maintained schools under section 52 of the Education Act 2002	Executive	7	Monitoring Officer
5. The making of arrangements pursuant to section 94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals)	Executive	7	Monitoring Officer
6. The making of arrangements pursuant to section 95(2) of, the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies)	Executive	7	Monitoring Officer
7. The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996	Council	43	
8. The conducting of best value reviews in accordance with the provisions of any	Executive following	7	

order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999	consultation with relevant Select Committee		
9. Any function relating to contaminated land	Landowner responsibility with Executive, otherwise Licensing and Regulatory Committee	7 12	Relevant executive member
10. The discharge of any function relating to the control of pollution or the management of air quality	Landowner responsibility with Executive, otherwise Licensing and Regulatory Committee	7 12	Relevant executive member
11. The Service of an abatement notice in respect of statutory nuisance	Executive	7	
12. The passing of a resolution that Schedule 2 to the Noise and statutory Nuisance Act 1993 should apply in the council's area	Executive	7	
13. The inspection of the authority's area to detect any statutory nuisance	Executive	7	
14. The investigation of any complaint as to the existence of a statutory nuisance	Executive	7	
15. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interest in land	Executive	7	
16. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	The Executive and all non-executive committees in relation to their functions	Various	All Chief Officers as appropriate
17. The making of agreements for the execution of highways works	Executive	7	
18. The appointment of any individual – (a) to any office other than an office in which he is employed by the authority;	Council	43	

<p>(b) To any body other than –</p> <p>(i) the authority</p> <p>(ii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body</p> <p>And the revocation of any such appointment</p>			
19. Power to make payment or provide other benefits in cases of maladministration etc.	Council	43	
20. The discharge of any function by an authority acting as a harbour authority	Licensing and Regulatory Committee	12	
<p>21. Functions in respect of the calculation of council tax base in accordance with any of the following-</p> <p>(a) the determination of an item for T in section 33(1) and 44(1) of the Local Government Finance Act 1992;</p> <p>(b) the determination of an amount for item TP in sections 34(3), 45(3) 48(3) and 48(4) of the Local Government Finance Act 1992;</p> <p>(c) the determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b) above.</p>	Executive	7	Relevant Executive Member
22. Licensing functions in accordance with Part 2 of the Licensing Act 2003 except section 6.	Licensing and Regulatory Committee	12	
<p>23. Functions in respect of gambling in accordance with any of the following—</p> <p>(a) a resolution not to issue casino licenses in accordance with section 166 of the Gambling Act 2005 (c.19);</p> <p>(b) prescribing of fees in accordance with section 212 of the Gambling Act 2005;</p> <p>(c) making an order disapplying section 279 or section 282(1) of the Gambling Act 2005 in accordance with section 284 of the Gambling Act 2005;</p> <p>(d) authorised persons in accordance with</p>	Council	43	

<p>section 304 of the Gambling Act 2005;</p> <p>(e) prosecutions by a licensing authority in accordance with section 346 of the Gambling Act 2005;</p> <p>(f) three-year licensing policy in accordance with section 349 of the Gambling Act 2005;</p>			
<p>23. The determination of school organisation proposals under the School Standards and Organisation (Wales) Act 2013</p>	Executive		Relevant Executive Member

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## 2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

**Table 2: Responsibility for Council Functions**

<b>Committee</b>	<b>Membership</b>	<b>Functions</b>
Planning	16 Members of the Authority	<p><b>1.Planning and conservation</b>            Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 ('the Functions Regulations') save in relation to footpaths and bridleways</p> <p>2. Powers relating to the preservation of trees, the protection of important hedgerows and the power to make limestone pavement order</p>
Licensing and Regulatory	12 Members of the authority	<p>All other functions and powers specified in Schedule 1 to the Functions Regulations, save in relation to the duty to determine licensing policy in accordance with s.5 of the Licensing Act 2003, to approve the Authority's Statement of Accounts, to determine the affordable borrowing limit, to make arrangements for the proper administration of financial affairs, the approval of an annual investment strategy, the power to make Standing Orders, to appoint staff, to appoint Proper Officers and designate Head of Paid Service and Monitoring Officer and to consider adverse reports from the Public Services Ombudsman for Wales, all of which shall be reserved to full Council.</p> <p>All functions and powers specified in Schedule 4 to the Functions Regulations other than those listed in Table 1 above as reserved to full Council or the Executive</p>
Standards Committee	3 members of the authority other than the Leader and 5 voting co-optee(s)	<p>As set out in Article 9.3</p> <p><b>Other functions</b>            Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Local Government Act 2000</p> <p>Other functions delegated to the Committee by the Council in accordance with section 54(3) of the Local Government Act 2000, in accordance with any regulations made under that Act</p>

Democratic Services Committee	12 members of the authority	<p>(a) To exercise the function of the local authority under section 8(1)(a) The Local Government (Wales) Measure 2011 (designation of head of democratic services)</p> <p>(b) To review the adequacy of provision by the authority of staff, accommodation and other resources to discharge democratic services functions, and</p> <p>(c) To make reports and recommendations to the authority in relation to such provision.</p> <p>(d) To fully support the non-executive role of councillors.</p> <p>(e) To undertake pieces of work aimed at improving the democratic function, in line with the ethos of the Local Government Measure 2011.</p> <p>(f) To draw up a job description for elected members and improve clarity, transparency and public engagement.</p> <p>(g) To review the ICT policy for members.</p>
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Audit Committee	11 members of the authority and 1 lay member	<p>(a) to review and scrutinise the authority's financial affairs,</p> <p>(b) to make reports and recommendations in relation to the authority's financial affairs,</p> <p>(c) to review and assess the risk management, internal control and corporate governance arrangements of the authority,</p> <p>(d) to make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements,</p> <p>(e) to oversee the authority's internal and external audit arrangements, and</p> <p>(f) to review the financial statements prepared by the authority.</p> <p>Core functions</p> <p>In order to meet the terms of reference above the Audit Committee will undertake the following core functions:</p> <ul style="list-style-type: none"> <li>• Approve internal audit's strategy, plan and performance.</li> <li>• Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.</li> <li>• Consider the reports of external audit and inspection agencies.</li> <li>• Consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements. Seek assurances that action is being taken on risk related issues identified by auditors and inspectors.</li> <li>• Be satisfied that the authority's assurance statements, including the Statement on Internal Control and Governance Statement, properly reflect the risk environment and any actions required to improve it.</li> <li>• Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.</li> <li>• Review the financial statements, external auditor's opinion and reports to members, recommend the adoption of the financial statements by full Council and monitor management action in response to the issues raised by external audit.</li> <li>• Maintain an overview of the Council's constitution in respect of contract procedure rules and financial regulations</li> <li>• Make recommendations, as appropriate, to Cabinet and Council on any matters reported through the Audit Committee.</li> </ul>
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### 3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

**Table 3. Responsibility for Executive Functions**

Who is Responsible	Mem'ship	Functions	Delegation of functions
The full Executive	Leader of the Council and 6 other executive councillors	All executive functions and those local choice functions specified as being the responsibility of the Executive.	<p>Responsibility delegated to each executive councillor for functions within the scope of their portfolio, provided a matter is</p> <ul style="list-style-type: none"> <li>• within the policy framework or corporate policy</li> <li>• is not in conflict, or does not compromise any existing or proposed policy</li> <li>• has no corporate impact (does not apply to decisions within corporate portfolios)</li> <li>• is within approved budgets or within virement discretion</li> <li>• is not considered (by the executive member or the Leader) to be too sensitive or controversial to be decided “within-portfolio”;</li> </ul> <p style="padding-left: 40px;">and subject</p> <ul style="list-style-type: none"> <li>• in all cases to the Leader being able to require any proposed decision to be taken by the Executive itself (where he/she judges this appropriate)</li> <li>• to the executive taking the final decision on joint arrangements, arrangements to provide well being-partnership arrangements and delegations to other local authorities</li> <li>• to the Executive itself making policy framework and byelaw recommendations to Council.</li> </ul> <p>Providing the above criteria are met, cross-portfolio decisions may be made by individual executive councillors in respect of their responsibilities provided there is agreement between the executive member concerned on the cross-portfolio decisions to be taken. In the absence of this, the decisions will fall to the Executive.</p>



**Table 4. Scheme of Delegation and Appointment incorporating delegation to Officers, Appointment of Proper Officers and other specified posts**

**Interpretation and Application**

1. The following terms shall be regarded as conferring delegated powers:-

To administer, agree, allocate, appoint, approve, authorise, be responsible, carry out, consider recommendations, control and develop, deal with, decide, determine, discharge, ensure, exercise, grant, identify, initiate and carry out, interview, issue, keep under review, make, make decisions, review, settle, undertake, waive.
2. For the avoidance of doubt, unless otherwise indicated, the words “to approve”, “to issue”, “to appoint” and all other such words mentioned in paragraph 1 above shall be construed having a negative as well as a positive meaning.
3. References to any Act or Regulation shall include any statutory extension or modification, amendment or re-enactment of the same.
4. References to an Act shall include any regulations made under it.
5. Where any delegation requires the relevant officer to consult with the Appropriate Members –
  - (a) this shall mean the appropriate executive member in relation to executive functions
  - (b) this shall mean the Chairman and/or Vice-Chairman of the relevant committee or sub-committee in relation to Council functions
  - (c) other than in the case of proposed planning decisions, consultation will normally be carried out in writing (and it shall be assumed that an Appropriate Member has no objection to the proposed decision or action if he fails to respond within 3 days); and
  - (d) in cases of urgency, consultation may be other than in writing.
6. Any powers or duties delegated to an officer may be exercised by his or her deputy or other persons duly authorised by that officer.

**Schedule of Delegated Functions – General Authority to the  
Chief Executive and Chief Officers**

**Part 1** – Delegation to be exercised following consultation with Appropriate Members

1. To deal with urgent business relating to the work of a department that cannot reasonably await the next appropriate Executive, Council, Committee or Sub-Committee meeting, or the requirements of the Executive and Select Committee procedure rules.
2. To make ex gratia payments for loss or damage to property of up to £300 subject to consultation with the Head of Finance.
3. To write off or sell surplus or obsolete equipment, vehicles and plant valued over £1000 by a process determined in accordance with the Head of Finance.
4. To make grants and donations (excluding under Welsh Church Fund) within the terms of the relevant grants scheme or other conditions imposed by the Council/Executive up to the relevant aggregate budget.

**Part 2** – Delegation to Chief Executive, deputy Chief Executive and all Chief Officers.

1. To have the day to day control of staff of the department under the terms of the relevant conditions of service and (subject to consultation with the Head of Employees Services as appropriate) to exercise the powers granted to Chief Officers under the Council's disciplinary code.
2. To take steps necessary for the day to day management and routine administration of the department.
3. To incur revenue expenditure within estimates subject to compliance with standing orders and financial regulations of the Council.
4. To incur capital expenditure provided:
  - (a) the project is included in the approved capital programme
  - (b) the project does not exceed the approved budget.
  - (c) the standing orders and financial regulations of the Council have been complied with.
5. To approve courses for staff not exceeding 14 days per person in any one year.
6. To approve carry-over of leave in accordance with the Council's policy.
7. To deal with applications for leave without pay.

8. To authorise attendances at meetings of professional bodies.
9. To pay honoraria subject to notification to the Head of Employee Services.
10. To manage the property under their control, including letting the same either temporarily or in accordance with Council policy and securing the removal of trespassers.
11. To write-off or sell minor items of obsolete equipment (up to £1000).
12. To seek planning permission and all other consents or licences on behalf of the Council in respect of any development associated with the relevant Chief Officer's responsibilities.
13. In consultation with the Head of Employee Services:
  - (a) to appoint or promote staff other than those on Chief Officer related grades within approved establishment and fix commencing salaries for such appointments and promotions.
  - (b) to appoint temporary staff in cases of special need or urgency.
  - (c) to operate national and local conditions of service.
  - (d) review of performance of less senior officers.
  - (e) to authorise overtime, honoraria payments and allocation of car/telephone allowances.
14. In consultation with the Head of Finance to make applications for grants from central government or any other external source.

### **Delegation to Specific Officers**

#### **Chief Executive**

**Part 1** – Delegations to be exercised following consultation with Appropriate Members.

1. Approval of activities as 'approved duties'.
2. To deal with any urgent business relating to the work of more than one Council directorate.

#### **Part 2**

1. To take any action necessary in connection with an emergency or disaster in the County.

2. The approval and issue of all official publicity, press statements and official publications.
3. To execute a power delegated to any officer when that officer is unable or unwilling to act.
4. To maintain a list of politically sensitive posts by adding or deleting posts as he/she considers appropriate and to issue certificates under Section 3(3) of the Local Government and Housing Act 1989.

### **Monitoring Officer**

**Part 1** – Delegations to be exercised following consultation with Appropriate Members.

None

### **Part 2**

1. To take all steps incidental to completing or obtaining the confirmation of any order or other formal proceedings made by the Council.
2. To serve any notice or requisition for information under any Act requiring the owner or occupier of or any person having an interest in or managing any land or premises to give information to the local authority.
3. The maintenance of the Land Charges Register and responses to local searches.
4. To deal with applications for the hire of office premises in accordance with the policy of the Council.
5. To approve the assignment of leases.
6. To instruct valuers on rent review or lease renewal and to accept that valuation.
7. To accept the valuer's valuations where the Council has agreed to sell or purchase land at a valuer's valuation and to report thereon to Council.
8. To serve notices of review of rent and notices to quit.
9. To approve the grant of leases and/or easements to utility companies for the purposes of establishing substations and laying cables etc on Council land and to report thereon to Council.
10. To take out grants of representation to a deceased's estates as creditor, beneficiary or trustee.

11. To settle the amount of compensation for damage to land which the Council is liable to pay in consequence of works carried out or other action taken on behalf of the Council up to a maximum of £1,000 in any one case and to report thereon to Council.
12. To obtain Counsel's opinion and to brief Counsel.
13. To sign on behalf of the Council any document necessary to give effect to any resolution of the Council, or of any Committee or Sub-Committee acting within powers delegated by the Council.
14. To institute or defend civil proceedings and intervene in or appear in proceedings before any court, the Lands Tribunal, an industrial tribunal, a Coroner, or any other statutory tribunal or inquiry, or arbitrator, where the interests of the Council, whether on its own behalf or on behalf of an authority for which the Council is agent, are involved, and to reach agreement as to settlement of such proceedings where appropriate.
15. To accept service of any proceedings.
16. To institute criminal proceedings in respect of offences against legislation (including bye-laws) which the Council is authorised to enforce, and institute or defend appeals arising out of such proceedings.
17. (a) In accordance with the provisions of section 101 of the Local Government Act 1972, the Monitoring Officer may, in the circumstances mentioned in paragraph 17(b) below, authorise another local authority to initiate and conduct the prosecution of offences committed in the County Council's area.  
(b) The circumstances are that the Monitoring Officer is satisfied that –
  - (i) the offences in question are related to offences alleged to have been committed in that other authority's area
  - (ii) it is expedient for the prosecution to be initiated and conducted by that other authority.
18. To defend any criminal proceedings brought against the Council and to institute or defend appeals arising out of such proceedings.
19. Under section 78 of the Criminal Justice and Public Order Act 1994, to make complaints to the Magistrates Court and to take any action authorised by the Court.
20. To authorise persons to survey and enter land in connection with proposed compulsory acquisitions.

21. To settle all claims made on the Council not exceeding £1,000 where provision is not clearly made (in consultation with the appropriate Chief Officer and the Head of Finance).

**Chief Officer – Enterprise.**

**Part 1** – Delegations to be exercised following consultation with Appropriate Members.

1. Urgent matters with regard to safety at sports grounds.
2. To take enforcement action to gain improvement to private water supplies under section 80 of the Water Industry Act 1991.
3. To issue prior consents under section 61 of the Control of Pollution Act 1974 (construction noise).
4. To authorise the issue of the following licences and, where necessary, enforce the legislation relating to licences:

for breeding of dogs  
for caravan sites  
for milk and dairies  
for pet animals (other than dogs)  
under the Animal Boarding Establishment Act 1963  
for riding stables  
for scrap metal dealers  
for hairdressers  
under the Poultry Meat (Hygiene) Regulations  
for performing animals  
for dangerous wild animals  
for zoos

5. To make an order under section 70 of the Criminal Justice and Public Order Act 1994.
6. In consultation also with the local member, where appropriate, to authorise the issue of licences and permits etc, under, and where necessary enforce, the following Acts or the legislation relating to the specified matters:-

Cinema Act 1985  
Theatres Act 1968  
Sunday Entertainments Act 1932 (as amended)  
Theatrical Employers Registration Acts 1925 and 1928  
Lotteries and Amusements Act 1976  
Gaming Act 1968  
Street Collection Permits  
Game Dealers Licences  
Licences for House to House Collections

Public Collections under the Charities Act 1992  
Late Night Refreshment Houses Act

7. In relation to County Farms:
- (a) Approval of all wayleave and easement agreements of apparatus over, under and through County Farm land
  - (b) Sale of small areas of surplus County Farm land (up to valuation of £20,000)
  - (c) Sale of land and buildings approved by Council as part of the County Farms strategy for disposal
  - (d) Notification of tenants who are more than a quarter in arrears with the payment of their rent farm.
  - (e) All matters relating to end of tenancy valuations
  - (f) Letting of land on short term agreement i.e. for less than 3 years
  - (g) Enforcement of County Farms strategies and policies
  - (h) Review of all County Farms and Cottage rents for reporting to Members
  - (i) Shortlisting, interviewing and appointment of new tenants

The above would also be applicable for other land owned by the County Council;

- Welsh Church Trust
- Education Trust Land

8A. *Planning Applications*

Reference in this Part and Part 2 to “the Act” means the Town and Country Planning Act 1990 (as amended) and “the Order” means the town and Country Planning (General Permitted Development) Order 1995 (as amended)

- A.1 To determine, subject to the exceptions stated in Paragraph A.4 below, the following matters:
- (a) Applications for planning permission and approval of reserved matters.
  - (b) Applications for Listed Building Consent.
  - (c) Applications for Conservation Area Consent.
  - (d) Applications for Express Consent to Display Advertisements.
  - (e) Applications for Certificates of Lawfulness of Existing Use or Development under Section 191 of the Act (jointly with the Monitoring Officer).
  - (f) Applications to retain works or uses already carried out.
  - (g) Applications to remove or modify conditions of planning permissions.

- (h) Applications for an approval required by a development order.
- A.2 To make observations subject to the exceptions stated in paragraph A.4 below on any proposals by statutory undertakers and Notices of Proposed Development by Government Departments.
- A.3 To formulate the Council's case where there is an appeal against non-determination of an application.
- A.4 The powers in A.1 to A.3 are limited such that where any of the following circumstances apply, an application will be reported to the Planning Control Committee:
  - (a) The officer recommendation is contrary to a development plan policy or proposal or other planning policy of the Council.
  - (b) The application is to be recommended for approval and a letter has been received with valid planning objections which have not been resolved.
  - (c) The application is made by or on behalf of either the County Council, an employee or a member of the Council or relates to land in which any of them have an interest.
  - (d) In the case of the following development (except where the application is a renewal of an extant permission):
    - Residential: Where the site area exceeds 0.5 hectare or the proposal relates to more than 10 dwellings
    - Non-Residential: Where the site area exceeds 1 hectare or the proposal relates to a building or buildings exceeding 1,000 square metres in area in total.
- A.5 To determine the following matters:-
  - (a) notifications for a determination required by a development order
  - (b) hedgerow removal notices under the Hedgerow Regulations 1997.

**8B. Public Rights of Way**

- B.1 To make unopposed temporary Prohibition Orders and Notices under Section 14 of the Road Traffic Regulation Act 1984.
- B.2 Where following non-statutory pre-order consultation there is no objection, to make the following orders, namely
  - (i) Public Path Orders under Section 257 of the Act (to enable development to be carried out in accordance with planning permission granted);



- (ii) Modification Orders and Reclassification Orders under Sections 53 and 54 of the Wildlife and Countryside Act 1981;
  - (iii) Public Path Extinguishment and Diversion Orders under Sections 118.119 and 120 of the Highways Act 1980.
- B.3 To determine not to proceed with any such order.
- B.4 To grant authorisations under Section 33 of the Road Traffic Act 1988.
- B.5 To authorise permissive path agreements.
- B.6 To authorise public path creation agreements under section 25 of the Highways Act 1980.
- 8C. Conservation**
- C.1 To serve building preservation notices under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in cases of emergency.
- C.2 To authorise urgent works under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 8D. Tree Preservation**
- D.1 To make provisional tree preservation orders under Section 201 of the Act.
- D.2 Applications for consent for the cutting down, topping, lopping or destruction of trees under Sections 198 and 211 of the Act, subject to the exceptions set out in Paragraph A.4 above.
- 8E. Recreation and Industry**
- E.1 To grant rent reduced or rent free periods, subject to the Council's appropriate policy.
- E.2 To serve notices to quit on tenants or lessees of industrial units.
9. To exercise the Council's functions under Part IX of the Housing Act 1985 (Demolition and Closing Orders).
10. To acquire museum exhibits of value over £1000 (subject also to consultation with the Head of Finance)
11. To assess and charge rents on new and existing dwellings acquired or provided by the Council.
12. In consultation with other Chief Officers as appropriate and the local ward member, to dispose at valuation of miscellaneous parcels of land and/or property up to £20K (other than County Farm land)
13. To serve Street Litter Control Notices under Part IV of the Environmental Protection Act 1990.

## Part 2

### Employment Services

1. To pay Council employees and to properly account for all statutory and non-statutory additions and deductions

### Environmental Services

1. To serve any notice or requisition for information under any Act relating to any environmental health or private sector housing matter and requiring the owner or occupier of, or any person having an interest in, or managing any land or premises, to give information to the Council and to authorise such other officers as are appropriate to serve such notice or requisition.
2. To determine applications for licences for game.
3. To authorise the removal of abandoned vehicles including the recovery of costs.
4. To take action in relation to the control of communicable diseases and in particular to authorise officers (in addition to the Environmental Health Manager:
  - (i) On behalf of the Proper Officer to require information from a person in the case of a notifiable disease or food poisoning (section 18);
  - (ii) On behalf of the Proper officer, to issue a notice in writing to request a person to discontinue work (section 20);
  - (iii) On behalf of the Proper Officer, to exclude from school a child liable to convey a notifiable disease (section 21);
  - iv) On behalf of the Proper officer, to require a list of pupils at a school having a case of notifiable disease (section 22)
  - v) To exclude children from places of entertainment or assembly (section 23)
  - (vi) To prohibit certain work on premises where a notifiable disease exists (section 28)
  - (vii) To cleanse or disinfect premises and destroy articles (section 31)
  - (viii) To sign any notice, order or other document which the authority are authorised or required by or under the Act to give, make or issue (section 59).
  - (ix) Section 61 Power of entry
5. To register:

- (a) persons and premises under Sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982 relating to acupuncture, tattooing, ear piercing and electrolysis, and
  - (b) persons and premises under Section 19 of that Act (Sale of Food by Hawkers)
6. To approve furnaces and chimney heights under the Clean Air Acts.
  7. To enforce the provisions of Sections 16 and 19 of and Schedule 2 to the Food and Protection Act 1985 (including the appointment of authorised officers) and the Control of Pesticides Regulations 1986.
  8. To authorise officers generally or specially for the purposes of the Food Safety Act 1990.
  9. To enforce the provisions of the Health and Safety at Work etc, Act 1974.
  10. To exercise the Council's powers under Section 19(1) of the Health and Safety at Work etc Act 1974 in relation to the appointment of inspectors.
  11. To exercise the Council's functions under Section 16(6) of the Environmental Protection Act 1990 in relation to the appointment of inspectors.
  12. To deal with applications under Schedule 2 to the Noise and Statutory Nuisance Act 1993 and to determine the level of fee chargeable for an application dependent upon the circumstances of each case.
  13. To take urgent action in relation to matters of animal health.
  14. To exercise the Council's functions under legislation relating to food and drugs, food hygiene, offices shops and railway premises.
  15. To serve notices and, where necessary, arrange for work to be carried out in default and recover costs incurred in relation to the drainage of existing buildings including private sewers.
  16. To authorise persons to enter land and/or premises under any of the following Acts:
    - a) Animal Boarding Establishment Act 1963
    - b) Dangerous Wild Animals Act 1976
    - c) Breeding of Dogs Act 1973 and 1991
    - d) Pet Animals Act 1951 as amended 1983
    - e) Riding Establishments Acts 1964 and 1970
    - f) Public Health (Control of Disease) Act 1984
    - g) Water Industry Act 1991
    - h) Local Government (Miscellaneous Provisions) Act 1976 and 1982
    - i) Caravan Sites and Control of Development Act 1960 as amended by Local Govt. (Misc. Provisions) Act 1982

- j) Scrap Metal Dealers Act 2013
  - k) Control of Pollution Act 1974
  - l) Refuse Disposal (Amenity) Act 1978
  - m) Environment Act 1995
  - n) Sunday Trading Act 1994
  - o) Prevention of Damage by Pests Act 1949
  - p) Trades Descriptions Act 1968
  - q) European Communities Act 1972 and regulations made there under.
  - r) Antisocial Behaviour Act 2003, part 8 (High Hedges): Section 74 (Powers of entry
  - s) Public Health Act 1936
  - t) Public Health Act 1961;
  - u) Health and Safety at Work etc, Act 1974;
  - v) Building Act 1984 (for drainage purposes)
  - w) Local Government (Miscellaneous Provisions) Act 1982 (for purposes of public entertainment licensing, acupuncture, tattooing, ear-piercing and electrolysis)
  - x) Food Safety Act 1990;
  - y) Environmental Protection Act 1990;”
  - z) Housing Act 2004
17. To authorise officers under the Dangerous Dogs Act 1991.
  18. In respect of statutory nuisances, to serve notices and to take action in default and to authorise Environmental Health Officers to serve notices under s80 Environmental Protection Act 1990 and to take action under section 81 to abate a nuisance.
  19. To authorise officers for the purpose of Paragraph 2A of Schedule 3 to the Environmental Protection Act 1990 (entry to or opening vehicles, etc).
  20.
    - (i) To obtain information about the emission of pollutants and other substances into the air under Section 79(2) of the Control of Pollution Act 1974.
    - (ii) To serve notices requiring information about air pollution under Section 80 of the Control of Pollution Act 1974.
    - (iii) To serve notices under Section 93 of the Control of Pollution Act 1974.
  21. To take action under section 20 of the Local Government (Miscellaneous Provisions) Act 1976 for the provision of sanitary accommodation.
  22. To administer the provisions of Part 1 of the Environmental Protection Act 1990 (schedule B processes) including the appointment of officers as inspectors, under section 16 of the Act, for the purposes of enforcement of Part 1 of the Act. The Council’s powers in relation to authorisations and enforcement generally under Part 1 of the Environmental Protection Act 1990 is delegated to officers duly appointed as inspectors under Part 1 of the Act, in line with such authority as may be approved by the Chief Officer - Enterprise

23. To exercise the Council's functions as contained in the Water Industry Act 1991 in relation to private water supplies.
24. To authorise officers under the European Communities Act 1972 and regulations made thereunder, including the Food Labelling Regulations 1996, the General Food Regulations 2004, the Official Feed and Food Controls (Wales) Regulations 2007, the Imported Food Regulations 1997 and the Products of Animal Origin (Third Country Imports (Wales) Amendment) Regulations 2007 and to appoint and authorise officers under the Food Hygiene (Wales) Regulations 2005 and the Food Hygiene (Wales)(No. 2) Regulations 2005.
25. To authorise officers under the provisions of Part 1, Chapter 1 of the Health Act 2006 with discretion to serve fixed penalty notices in accordance with that Act, any subordinate legislation and related guidance.
26. To authorise officers to take action, including the service of notices under the following provisions of the Public Health 1936:
  - (i) s45 to remedy defective sanitary conveniences
  - (ii) s50 to remedy overflowing and leaking cesspools
  - (iii) s83 to remedy filthy or verminous premises
27. To authorise officers to take action, including the service of notices under s17 of the Public Health 1961 (repair of stopped up drains)
28. To authorise officers for the purpose of enforcement of the Dogs (Fouling of Land) Act 1996, including the issue of a fixed penalty notice in relation to dog fouling offences.
29. To authorise officers to take enforcement action under the Pollution Prevention and Control Act 1999 and regulations made thereunder including those functions under the Environmental Permitting (England and Wales) Regulations 2007; including the granting, variation and revocation of Environmental Permits, the service of Enforcement Notices and Suspension Notices and the Power to prevent or remedy pollution, and the Power to require the provision of information.
30. To authorise officers to discharge the local authority's functions under the Water Industry Act 1991, including the service of notices under Section 80 and enforcement action under any Regulations made thereunder.
31. To authorise officers to serve notices under Section 60 of the Control of Pollution Act 1974.
32. To authorise persons to serve notices under section 4 of the Prevention of Damage by Pests Act 1949 requiring steps to be taken for the destruction of

rats or mice or otherwise for keeping the land free from rats and mice and, subject to the approval of the Environmental Health Manager, to take action in default (section 5);

### **Trading Standards**

33. To exercise the registration and enforcement functions of the Council contained in
  - (a) The Explosives Acts 1875 and 1923 and the Explosives (Age of Purchase etc.) Act 1976.
  - (b) The Poisons Acts.
34. To provide under the Weights and Measures Act 1985 local standards and other weights, measures and testing equipment; and to exercise the enforcement functions of the Council as weights and measures authority.
35. To authorise officers to enter land, inspect and undertake enforcement action pursuant to the
  - (a) Agriculture Act 1970 as it applies to Animal Feeding Stuffs and Fertilisers;
  - (b) Animal Health Acts 1981 and 1984;
  - (c) Cancer Act 1939 as it applies to the investigation of offences;
  - (d) Children and Young Persons (Protection from Tobacco) Act 1991;
  - (e) Consumer Credit Act 1974;
  - (f) Consumer Protection Act 1987;
  - (g) Control of Pollution Act 1984 as it applies to anti fouling paints;
  - (h) Education Reform Act 1988 in respect of bogus degrees;
  - (i) Environmental Protection Act 1990 as it applies to the sale and labelling of pesticides and dangerous substances;
  - (j) Estate Agents Act 1979;
  - (k) European Communities Act 1972 as it applies to subordinate regulations;
  - (l) Fair Trading Act 1973;
  - (m) Hallmarking Act 1973
  - (n) Health and Safety at Work etc Act 1974 as it applies to the Explosives Acts 1875 and 1923 and the Explosives (Age of Purchase etc.) Act 1976;
  - (o) Medicines Act 1968 as it applies to Medicated Animal Feeding Stuffs and relevant aspects of the sale and labelling of pharmaceutical products;
  - (p) Motorcycles Noise Act 1987 relevant to the sale of motorcycle parts;
  - (q) Motor Vehicles (Safety Equipment for Children) Act 1991 as it applies to the sale etc of child care seats;
  - (r) Poisons Act 1972 in respect of Part II poisons;
  - (s) Prices Act 1974 and 1975 regarding price marking;

- (t) Property Misdescriptions Act 1991;
  - (u) Telecommunications Act 1984 in respect of subordinate regulations;
  - (v) Timeshare Act 1992;
  - (w) Trade Descriptions Act 1968;
  - (x) Trade Marks Act 1974;
  - (y) Video Recordings Act 1984 and 1993;
  - (z) Weights and Measures Act 1985.
  - (aa) Protection of Children (Tobacco Act) 1986
  - (bb) Licensing Act 1964
  - (cc) Licensing (Young Persons) Act 2000
  - (dd) Clean Air Act 1993
  - (ee) Development of Tourism Act 1969
  - (ff) Energy Conservation Act 1981
  - (gg) Olympic Symbol etc. (Protection) Act 1995
  - (hh) Trading Representations (Disabled Persons) Acts 1958 and 1972
  - (ii) Protection of Animals (anaesthetics) Act 1954
  - (jj) Protection of Animals Act 2000
  - (kk) Criminal Justice and Police Act 2001
  - (ll) Vehicle Crimes Act 2001
36. To authorise officers and take action in the public interest as appropriate in respect of the following
- (a) Agriculture (Miscellaneous Provisions) Act 1968;
  - (b) Agriculture Produce (Grading and Markings) Acts 1923 and 1931;
  - (c) Business Names Act 1985;
  - (d) Companies Act 1985;
  - (e) Copyright, Designs and Patents Act 1988;
  - (f) Sections 30 and 31 of the Explosives Act 1875;
  - (g) Farm and Garden Chemicals Act 1967;
  - (h) Petroleum Consolidation Act 1928;
  - (i) Protection of Animals Act 1911;
  - (j) Sections 40A, 70, 71, 75, 76 and 78 of the Road Traffic Act 1988;
  - (k) Theft Acts 1968 and 1978;
  - (l) Trading Stamps Act 1964;
  - (m) Unsolicited Goods and Services Act 1971;
  - (n) Intoxicating Substances (Supply) Act 1985.
  - (o) Accommodation Agencies Act 1953
  - (p) Administration of Justice Act 1970 (re harassment of debtors)
  - (q) Dogs Act 1906 and Dogs (Amendment) Act 1928
  - (r) Forgery and Counterfeiting Act 1981
  - (s) Knives Act 1997
  - (t) Offensive Weapons Act 1996
  - (u) Malicious Communications Act 1988
  - (v) Mock Auctions Act 1961
  - (w) National Lottery Act 1993
  - (x) Pet Animals Act 1951
  - (y) Protection against Cruel Tethering Act 1988
  - (z) Unsolicited Goods and Services Act 1975
  - (aa) Enterprise Act 2002

(bb) Tobacco Advertising and Promotion Act 2002

37. To appoint for enforcement purposes:

- (a) Inspectors under the Agriculture Act 1970 as it applies to Animal Feeding Stuffs and Fertilisers;
- (b) Inspectors under the Animal Health Acts 1981 and 1984;
- (c) Officers under the Consumer Protection Act 1987;
- (d) Officers under the Environmental Protection Act 1990 as it applies to sale, labelling etc of pesticides and dangerous substances;
- (e) Officers under the Health and Safety at Work etc Act 1974 (the 1974 Act)
  - (i) to exercise the powers of an Inspector specified in sections 20, 21, 22, 25 and in England and Wales section 39 of the 1974 Act
  - (ii) any health and safety regulations
  - (iii) the provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the third column of that Schedule and of the regulations, orders or other instruments of a legislative character made or having effect under any provision so specified,  
as in force from time to time.
- (f) Officers under the Licensing Act 2003
- (g) Officers under Part II of the Clean Neighbourhoods & Environment Act 2005
- (h) Officers under the Refuse Disposal Amenity Act 1978
- (i) Environmental Health Officers to serve a Litter Clearing Notice under Part IV of the Environmental Protection Act 1990
- (j) Officers under Part IV of the Environmental Protection Act 1990.
- (k) Officers to serve Fixed Penalty Notices under section 47ZA of the Environmental Protection Act 1990
- (l) Officers under Part 6 Chapter 1 of the Clean Neighbourhoods & Environment Act 2005



38. (a) Having obtained the agreement of the Head of Legal Services, to lay informations (but not to prosecute) in respect of offences under the Acts listed in paragraph 27 to 39 above.
- (b) Where the Head of Legal Services or the Head of Finance considers it necessary, he is authorised to commence proceedings by way of charge.

Note: The Trading Standards Manager is authorised to lay informations (but not to prosecute) in respect of

The Enterprise Act 2002  
The Tobacco Advertising and Promotion Act 2002  
The Criminal Justice and Police Act 2001  
The Vehicle Crimes Act 2001  
The Protection of Children (Tobacco) Act 1986  
The Licensing Act 1964  
The Licensing (Young Persons) Act 2000  
The Clean Air Act 1993  
The Development of Tourism Act 1969  
The Energy Conservation Act 1981  
The Olympic Symbol Etc. (Protection) Act 1995  
The Trading Representations (Disabled Persons) Acts 1958 and 1972  
The Protection of Animals (Anaesthetics) Act 1954  
The Protection of Animals Act 2000  
The Accommodation Agencies Act 1953  
The Administration of Justice Act 1970  
The Dogs Act 1906 and The Dogs (Amendment) Act 1928  
The Forgery and Counterfeiting Act 1981  
The Knives Act 1997  
The Offensive Weapons Act 1996  
The Malicious Communications Act 1988  
The Mock Auctions Act 1961  
The National Lottery Act 1993  
The Pet Animals Act 1951  
The Protection Against Cruel Tethering Act 1988  
The Unsolicited Goods and Services Act 1975

and any other legislation within the ambit of the Trading Standards section

### **Highways**

39. Issuing of permissions and licences in accordance with the provisions of the Highways Act 1980, the New Road and Street Works Act 1991, the Land Drainage Act 1976 and the Public Health Act 1936.
40. The serving of notices, but not their enforcement, in accordance with the provisions of the Highways Act 1980, the New Roads and Street Works Act 1991, the Land Drainage Act 1976 and the Public Health Act 1936.

41. To respond on behalf of the Council to HGV Operators' licence applications.
42. Authorise the making of agreements under section 38 of the Highways Act 1980.
43. Enforcement of car parking orders.
44. To respond to planning applications on behalf of the Council as Highway Authority.
45. To authorise applications to the magistrates' court to divert or extinguish highways, under section 116 of the Highways Act 1980.
46. To authorise persons to enter land and/or premises for the purpose of:-
  - undertaking surveys pursuant to section 289 of the Highways Act 1980; and
  - maintaining, altering or removing certain structures and works pursuant to section 291 of the Highways Act 1980.

### **General**

47. To give directions under section 77 of the Criminal Justice and Public Order Act 1994 (Power of local authority to direct unauthorised campers to leave land).

### **Licensing**

48. No delegations have been made to specific officers under the Gambling Act 2005
49. In relation to the hackney carriage and private hire licensing functions, to approve applications for drivers' licences where they are unproblematical and/or reveal minor traffic offences and/or the applicants had not received any additional convictions/endorsements since the previous licences were issued.
50. To determine (including imposition of conditions) application for a Pleasure Boat Licence pursuant to s94 Public Health Amenities Act 1907

### **Planning**

#### **51A. Planning Applications**

- A.1 (a) Applications under planning conditions requiring the specific approval of the Local Planning Authority.  
  
(b) Minor amendments to plans where planning permission has been granted (or where it has been decided that planning permission should be granted subject to the completion of a planning agreement/obligation).
- A.2 To make observations on planning consultations received from Brecon Beacons National Park and adjoining authorities.

- A.3 To decline to determine an application for planning permission under the powers of Section 70A of the Act (applications submitted within 2 years of a dismissed appeal).
- A.4 To determine that an application is a departure from the development plan.
- A.5 (Jointly with the Monitoring Officer) to enter into obligations under section 106 of the Act in the same (or substantially the same) terms as a previous obligation under that section on applications which are revisions or renewals of previously approved applications.
- A.6 To determine whether an environmental assessment is required.
- A.7 To make all necessary decisions on procedural matters in connection with the processing of applications and appeals.
- A.8 Applications for Certificates of Lawfulness of Proposed Use or Development under Section 192 of the Act (jointly with the Head of Local Democracy & Legal Services).

**52B. Enforcement of Planning Control**

- B.1 To issue the following notices:
  - (a) Planning Contravention Notices under Section 171C of the Act (to require information).
  - (b) Breach of Condition Notices under Section 187A of the Act.
  - (c) Enforcement Notices where planning permission has been refused for the development.
  - (d) Breach of Condition Enforcement Notices.
  - (e) Hedgerow Replacement Notices under the Hedgerow Regulations 1997.
- B.2 To consider offers and representations made under Section 171C (4) of the Act (responses to Planning Contravention Notices).
- B.3 To remove unauthorised advertisements, placards and posters under Sections 224 and 225 of the Act.

**Building Regulations**

- 53. To deal with applications under the Building Regulations including relaxation, dispensation and enforcement thereof.
- 54. To serve notices and take any necessary action in respect of demolition works, dangerous buildings, walls, stands, trees, places, hoardings and other structures.

### **Public Rights of Way**

55. To give notices under Section 14(2) of the Road Traffic Regulation Act 1984 in cases of emergency.
56. To serve notices and where necessary arrange for work to be carried out in default and recover costs incurred in relation to protection and restoration of public rights of way.
57. To make observations on orders proposed to be made by the Brecon Beacons National Park Authority.
58. To authorise erection of stiles etc. on footpaths and bridleways under section 147 of the Highways Act 1980.
59. To authorise applications to the magistrates' court to divert or extinguish public rights of way under section 116 of the Highways Act 1980.
60. Where, following the relevant statutory period no objections have been received or where such objections have been withdrawn, to confirm the orders specified in paragraph B.2 in Part 1 above.
61. To authorise the provision of barriers etc under section 66(2) and (3) of the Highways Act 1980.

### **Conservation**

62. To approve grants for historic buildings under Historic Town Schemes.

### **Tree Preservation**

63. To serve notices under Section 207 of the Act to plant replacement trees and to subsequently monitor.
64. To confirm tree preservation orders where no objections were made or where all objections have been withdrawn.

### **Entry onto Land**

65. To authorise persons to enter land under
  - (a) Sections 196A, 214B and 324 of the Act
  - (b) Section 95 of the Building Act 1984
  - (c) Section 293 of, and paragraph 7 of Schedule 12A to, the Highways Act 1980
  - (d) Section 71 of the Road Traffic Regulation Act 1984.
  - (e) Highways Act 1980
  - (f) Wildlife and Countryside Act 1981

(g) Countryside and Rights of Way Act 2000.

**Recreation and Industry**

- 66. To apply for regional development grants under the Industry Act 1972.
- 67. To deal with applications for occupation of the Council's industrial units.
- 68. To undertake (and apply) reviews of rent of the Council's industrial units.

**Miscellaneous**

- 69. To respond on behalf of the Council to HGV operator's licence applications.

**County Farms, Welsh Church Land and Education Trust Land**

- 70. Overall day to day management of the farming estate and other agricultural land owned by the County Council.
- 71. Farm improvements undertaken by tenants who require Landlords Consent/Permission.
- 72. Annual programme of farm improvements to be carried out by the Landlord as part of its planned maintenance and reinvestment.
- 73. Transfer and management of the milk quota between tenants
- 74. Preparation and annual revision of the County Farms Asset Valuation
- 75. Conservation and woodland management
- 76. Preparation and agreement of Service Level Agreements with other Departments of the County Council
- 77. Land drainage and water supply improvements
- 78. Agreement to apply for planning permission where required
- 79. Acquisition of office equipment and supplies
- 80. Agreeing to staffing and training needs
- 81. Health and Safety issues.

**Other land and buildings**

- 82. To assess and charge rents on new and existing dwellings acquired or provided by the Council.

## Private Sector Housing

83. (a) To serve notices in respect of unfit houses under Sections 189 and 264 of the Housing Act 1985.
- (b) To serve repair notices under Section 190 of the Housing Act 1985.
- (c) To authorise work in default of compliance with notices served under Section 190 of the Housing Act 1985.
- (d) To exercise the Council's functions as contained in Part XI of the Housing Act 1985 in relation to houses in multiple occupation.
- (e) To exercise the powers conferred on Councils under the Housing Act 2004 - Part 1.
- (f) To carry out inspections of any residential premises to see if a Category 1 or Category 2 hazard exists.
- (g) To take appropriate enforcement action where a Category 1 or Category 2 hazard exists, this includes:
- a. Serving an Improvement Notice. (Housing Act 2004 Section 11 - Section 12)
  - b. Making a Prohibition Order. (Housing Act 2004 Section 20 - Section 21)
  - c. Serving a Hazard Awareness Notice. (Housing Act 2004 Section 28 - Section 29)
  - d. Taking emergency remedial action. (Housing Act 2004 Section 40)
  - e. Making an Emergency Prohibition Order. (Housing Act 2004 Section 43)
- (h) To suspend Improvement Notices and to review such Improvement Notices. (Housing Act 2004 Section 14)
- (i) To revoke or vary Improvement Notices and to suspend and review suspended Improvement Notices. (Housing Act 2004 Section 16)
- (j) To suspend Prohibition Orders and to review such Prohibition Orders. (Housing Act 2004 Section 23)
- (k) To revoke or vary Prohibition Orders and to suspend and review suspended Prohibition Orders. (Housing Act 2004 Section 25)
- (l) To serve an Overcrowding Notice. (Housing Act 2004 Section 139)

- (m) To revoke or vary Overcrowding Notice. (Housing Act 2004 Section 144)
  - (n) To take enforcement action under Schedule 3 (works in default).
  - (o) To exercise the powers conferred on Councils under the Housing Act 2004 - Part 2).
  - (p) To operate and manage any H.M.O. licensing scheme.
  - (q) To compile and maintain a public register of licensed H.M.O.'s. (Housing Act 2004 Section 232)
  - (r) To impose conditions relating to the management of a H.M.O. (Housing Act 2004 Section 67)
  - (s) To serve or decide not to serve a Temporary Exemption Notice. (Housing Act 2004 Section 62)
  - (t) To require a fee for H.M.O. licensing.
  - (u) To grant or refuse a H.M.O. licence. (Housing Act 2004 Section 64)
  - (v) To vary or revoke a H.M.O. licence. (Housing Act 2004 Section 69 - 70)
  - (w). To apply to A Residential Property Tribunal to make a Rent Repayment Order and to serve a Notice of Intended Proceedings. (Housing Act 2004 Section 73)
  - (x) To make an Interim and Final Management Order. (Housing Act 2004 Section 102 and Section 113)
  - (y) To authorise officers to enter premises to carry out work under Housing Act 2004 Section 131, Schedule 3 para. 3 (4) and Schedule 7 para. 25.
  - (z) To require the production of documents under Section 235.
  - (aa) To enter premises for the purposes of survey and examination under Section 239.
  - (bb). To apply to a Justice of the peace for a warrant to authorise entry.
  - (cc) To authorise officers for enforcement purposes. (Housing Act 2004 Section 243)
84. To carry out relevant functions under the Housing Act 2004, such delegation to include the authorisation of Environmental Health Officers including:

- (a) To exercise the powers conferred on Councils under the Housing Act 2004 - Part One.
- (b) To carry out inspections of any residential premises to see if a Category 1 or Category 2 hazard exists.
- (c) To take appropriate enforcement action where a Category 1 or Category 2 hazard exists, this includes:
  - a. Serving an Improvement Notice. (Housing Act 2004 s11 - s12)
  - b. Making a Prohibition Order. (Housing Act 2004 s20 - s21)
  - c. Serving a Hazard Awareness Notice. (Housing Act 2004 s28 – s29)
  - d. Taking emergency remedial action. (Housing Act 2004 s40)
  - e. Making an Emergency Prohibition Order. (Housing Act 2004 s43)
- (d) To suspend Improvement Notices and to review such Improvement Notices. (Housing Act 2004 s14)
- (e) To revoke or vary Improvement Notices and to suspend and review suspended Improvement Notices. (Housing Act 2004 s16)
- (f) To suspend Prohibition Orders and to review such Prohibition Orders. (Housing Act 2004 s23)
- (g) To revoke or vary Prohibition Orders and to suspend and review suspended Prohibition Orders. (Housing Act 2004 s25)
- (h) To serve an Overcrowding Notice. (Housing Act 2004 s139)
- (i) To revoke or vary Overcrowding Notice. (Housing Act 2004 s144)
- (j) To take enforcement action under Schedule 3 (works in default).
- (k) To exercise the powers conferred on Councils under the Housing Act 2004 - Part 2).
- (l) To operate and manage any H.M.O. licensing scheme.
- (m) To compile and maintain a public register of licensed H.M.O.'s. (Housing Act 2004 s232)
- (n) To impose conditions relating to the management of a H.M.O. (Housing Act 2004 s67)
- (o) To serve or decide not to serve a Temporary Exemption Notice. (Housing Act 2004 s62)
- (p) To require a fee for H.M.O. licensing.
- (q) To grant or refuse a H.M.O. licence. (Housing Act 2004 s64)



- (r) To vary or revoke a H.M.O. licence. (Housing Act 2004 s69 - 70)
- (s) To apply to A Residential Property Tribunal to make a Rent Repayment Order and to serve a Notice of Intended Proceedings. (Housing Act 2004 s73)
- (t) To make an Interim and Final Management Order. (Housing Act 2004 s102 and s113)
- (u) To authorise officers to enter premises to carry out work under Housing Act 2004 s131, Schedule 3 paragraph 3 (4) and Schedule 7 paragraph. 25.

### **Leisure Services**

- 85. To authorise free entry to any of the Council's museums for organised parties.
- 86. To authorise and carry out the destruction of any exhibits which are considered by him to be a considerable risk to other exhibits.
- 87. To authorise the fee for taking photographs inside any of the Council's museums to be waived in any cases considered appropriate.
- 88. To acquire museum exhibits up to £1,000 (in consultation with the Head of Finance).

### **Housing**

- 89. To manage the Council's housing stock.
- 90. (a) To deal with and take all decisions in relation to homelessness applications.
- (b) To authorise payment in respect of accommodation provided other than by the Council in circumstances of homelessness.
- 91. To administer housing schemes under which the Council sells and purchases properties so as to provide low-cost housing.
- 92. To approve and refuse applications for housing renovation grants.
- 93. The service of notices, certificates of disrepair, etc, under the Rent Acts.

### **Head of Finance**

#### **Part 1**

- 1. To exercise discretions relating to Community Charge, Council Tax and National Non-Domestic Rates where the Council has not established a policy on how such discretions might be exercised.

## Part 2

1.
  - (a) To manage the Council's treasury function in accordance with the Treasury Management Strategy established annually.
  - (b) To write-off debts in accordance with the Council's Sundry Debtor Policy.
  - (c) To agree charges for council services which may be made available to outside bodies.
  - (d) To enter into finance or operational leasing arrangements or other off balance sheet arrangements to give effect to decisions to acquire vehicles, plant, equipment, etc.
  - (e) To administer the Council's scheme for loans for car purchase and car leasing.
  - (f) To determine the manner in which and conditions on which invoices or accounts should be issued.
  - (g) To make declarations as to rates of interest under Paragraph 3 of Schedule 16 to the Housing Act 1985.
2.
  - (a) To administer the schemes in relation to Housing Benefit and Council Tax Benefit; taking such decisions and giving such notices and all other action as may be necessary for their efficient administration.
  - (b) Either the Head of Finance or the Head of Audit, Resources and Performance Management (personally) to conduct the first review under such benefit schemes.
3.
  - (a) To administer the statutory provisions relating to Community Charge, Council Tax and National Non-Domestic Rates.
  - (b) To exercise discretions relating to Community Charge, Council Tax and National Non-Domestic Rates where the Council has established a policy on how such discretions might be exercised.
4. To manage the fund administered by the Council in accordance with the scheme made under Section 19 of the Welsh Church Act 1914.
5. To sign cheques, bailiff warrants, bonds, securities and loans; provided that cheques in excess of £50,000 shall be countersigned by either the Head of Audit, Resources and Performance Management or the Head of Resources & Corporate Services.
6. To pay all accounts and to receive all income.

7. To deal with all insurance issues including risk management.
8. To manage arrangements with the Council's bankers.
9. To sign all statutory financial returns, accounts, grants and subsidy claims.
10. To instruct valuers for purposes of capital accounting, in consultation with the Monitoring Officer.
11. To approve housing guarantees and advances for house purchase and improvements (and to consider applications for consent under deeds of mortgage).
12. To act as principal point of contact with the Council's external auditors.

### **Head of Operations**

**Part 1** - Delegations to be exercised following consultation with Appropriate Members.

To authorise the preparation and submission by the DSO of tender bids, quotations, etc, for works offered by bodies other than the Council of a value estimated greater than £400,000 per annum.

#### **Part 2**

1. To authorise the preparation and submission by the DSO of tender bids, quotations, etc, for work offered by the Council.
2. To authorise the preparation and submission by the DSO of tender bids, quotations, etc, for works offered by bodies other than the Council of a value estimated up to £400,000 per annum.
3. To manage and administer the Council's electronic data and telephony network in accordance with corporate standards.

### **Head of Improvement and Democracy**

#### **Part 2**

1. To carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

### **Head of Public Health and Culture**

#### **Part 2**

#### **Licensing Act 2003**

1. To consider and, where appropriate, agree the following applications:

- i) Application for personal licence with unspent convictions
  - ii) Application for a Minor Variation
  - iii) Request to be removed as designated premises supervisor
2. To consider and, where appropriate, agree the following applications where no police or other relevant representation is made:
- i) Application for personal licence
  - ii) Application to disapply the requirement for a designated premises supervisor at community premises
  - iii) Application for premises licence/club premises certificate
  - iv) Application for provisional statement
  - v) Application to vary premises licence/club premises certificate
  - vi) Application to vary designated premises supervisor
  - vii) Application for transfer of premises licence
  - viii) Application for interim authorities

### **Environmental Health Manager**

#### **Part 1**

The authority to grant, refuse or vary the following licenses

- i) Caravan sites
- ii) Riding establishments

#### **Part 2**

#### **Public Health (Control of Disease) Act 1984 (as amended by the Health and Social Care Act 2008) and Regulations made under the 1984 Act**

- 1. To enter premises (Sections 61 and 62)
- 2. To sign any notice, order or other document which the authority are authorised or required by or under this Act to give, make or issue (Section 59)

#### **The Health Protection (Local Authority Powers) (Wales) Regulations 2010**

- 3. To serve, if satisfied a child is or may be infected or contaminated and therefore presents or could present significant harm to human health, a notice to require that the child be kept away from school (Reg. 2)
- 4. To serve notice to require the Head teacher of a school to provide a list of names, addresses and contact telephone numbers of children attending school (Reg. 3)
- 5. To arrange disinfection or decontamination of things, premises on request of the owner (Reg. 4)
- 6. To arrange disinfection or decontamination of things on request of person with custody or control (Reg. 5)

7. To arrange disinfection or decontamination of premises on request of the owner (Reg. 6)
8. To arrange disinfection or decontamination of premises on request of tenant (Reg. 7)
9. To serve a notice to request co-operation for health protection purposes (Reg. 8)
10. To serve a notice to restrict contact with dead bodies (Reg. 9)
11. To serve a notice to restrict access to dead bodies (Reg. 10)
12. To relocate, or cause to be relocated a dead body that is or may be infected or contaminated (Reg. 11)

### **The Health Protection (Part 2A Orders) (Wales) Regulations 2010**

13. To make an application to a Justice of the Peace for an order under Part 2A of the Act for Health Measures (Regulation 3):
  - Health measures in relation to persons (under s45G(2a-k) or (4) of Part 2A of 1984 Act)
  - Health measures in relation to things (under s45H(2a-e) or (4a&b) of Part 2A of 1984 Act)
  - Health measures in relation to premises (under s45I(2a-d) or (4) of Part 2A of 1984 Act)
14. To make reasonable enquiries as to the existence and location of persons in relation to an application for an order, namely,
  - the person subject to the application for an order and
  - persons to whom the local authority must give notice of an application for an order, (as specified in paragraphs (4) to (7) Regulation 3)
15. To determine information, as deemed necessary, to enable provision of the evidence required for a Part 2A application in relation to persons (Regulation 4)

### **Petroleum Consolidation Act 1928**

16. To grant or vary petroleum licences

### **Principal Licensing Officer**

1. To approve applications and issue licences under the Scrap Metal Dealers Act 2013 in cases where no relevant information needs to be considered. This power to approve applications and issue licences may be exercised by a deputy or other persons duly authorised by the Principal Licensing Officer, including Senior Licensing Officers.

## **Chief Officer - Children & Young People**

**Part 1** - Delegations to be exercised following consultation with Appropriate Members.

1. School Term Dates: In the case of County, Voluntary Controlled and Special Schools, including residential schools, ( as from 1 September 1999, community , foundation and voluntary schools and community and foundation special schools) to determine school term dates after consultation with the Teachers' Associations.
2. Regarding admissions:
  - (a) To keep standard numbers under review and to implement any necessary changes, where these are agreed by the governing body.
  - (b) To respond to any proposals from governing bodies to increase standard numbers.
  - (c) To set admission limits which exceed the standard number where this is considered appropriate.
3. To consider proposed statements of special educational need where it is proposed that consideration is to be given to placement at a school establishment outside the area of the Council.
4. To determine and authorise the payment of discretionary awards and grants including any awards from charitable trust funds which the Council administers.
5. To agree, on safety grounds, that home to school arrangements be provided in any particular case in excess of the Council's mileage policy.

## **Part 2**

1. Regarding admissions:
  - (a) To consult annually with governing bodies about admission arrangements as required by Section 412 of the Education Act 1996.
  - (b) To administer arrangements for admissions to nursery schools and classes in accordance with policies agreed by the Council.
  - (c) Under Section 431 of the Education Act 1996 to issue a direction that a child be admitted to a named school within the Council's area.
  - (d) To comply with any requirements made by the Secretary of State to implement a scheme for co-ordinated arrangements for admissions in accordance with Section 430 of the Education Act 1996.

- (e) To administer arrangements for the admission of individual pupils to primary and secondary schools, including designated areas and other relevant factors and to present the case on behalf of the Council to admission appeal panels.
  - (f) To exercise the functions of the Council in relation to pupils excluded from school and to present the case on behalf of the Council to exclusion appeal panels.
2. Attendance at School:
- (a) To ensure that appropriate transport arrangements are made in accordance with the Council's policies.
  - (b) To exercise the powers and duties of the Council in respect of children excluded from school and to make suitable arrangements for the continuing education of pupils who are excluded or otherwise unable to attend school.
  - (c) To exercise the functions of the Council relating to the non attendance of pupils at school.
  - (d) To undertake the powers and duties of the Council under Section 36 of the Children Act 1989 regarding Education Supervision Orders.
3. Curriculum:
- (a) To monitor the implementation of the requirements in respect of the school curriculum, including religious worship and education, in conjunction with SACRE, if appropriate, as set out in the Education Act 1996.
  - (b) In accordance with arrangements approved by the Secretary of State under Section 409 of the Education Act 1996 to investigate complaints concerning alleged failures of schools to comply with the National Curriculum, including the requirements for religious education and collective worship and the arrangements for statutory assessment and moderation of the National Curriculum.
  - (c) To determine whether application be made to the Secretary of State to direct that an LEA maintained school be authorised to conduct curriculum experiments outside the National Curriculum.
  - (e) To provide any information which the Secretary of State may, by regulation, require.
4. Special Educational Needs
- (a) To arrange for children to be assessed in accordance with the requirements of the Education Act 1996, to determine the special educational provision which should be made for them and to maintain and review statements of special educational need.

- (b) To represent the Council at Special Educational Needs Tribunals in connection with the assessment of special educational needs.
  - (c) To ensure that the requirements of the Code of Practice on Special Educational Needs or other regulations are complied with.
5. Staffing as respects primary, secondary and special schools:
- (a) To appoint
    - (i) persons selected by governing bodies to fill vacant posts as head teachers or deputy head teachers
    - (ii) persons recommended or accepted for appointment by governing bodies to fill other teaching posts
    - (iii) persons recommended by governing bodies for appointment to non-teaching posts

unless the person does not meet any qualification requirements applicable to the post.
  - (b) In the case of aided schools to exercise any advisory rights relating to the appointment of head teachers, deputy head teachers or other teaching or ancillary staff conferred by agreement or legislation.
  - (c) To nominate persons to fill vacancies in other teaching posts in schools where governing bodies have notified their intention to fill those vacancies.
  - (d) To appoint persons selected by governing bodies as their Clerks.
  - (e) To implement determinations of governing bodies of schools relating to the determination of potential dismissals and any subsequent appeals against such dismissals, which are within the Council's powers to determine.
  - (f) To exercise the powers of the Council as local education authority in respect of the Licensed Teacher Scheme.
  - (g) To appoint supply teachers from funds held centrally.
  - (h) To exercise the powers and duties under the School Teacher (Appraisal) Regulations 1991 in respect of head teachers.
6. Finance
- (i) To design and keep under review the Council's scheme of delegation in accordance with the Council's policies and any statutory requirements.



- (ii) To determine and authorise the payment of boarding awards, grants towards tuition fees and expenses at schools where fees are payable, mandatory awards, maintenance allowances and tuition fees for correspondence courses and requests for the refund of grants in accordance with the policy of the Council.
- (iii) To approve the payment of recoupment charges for pupils at establishments located outside the area of the Council.

7. Copyright

To enter into such agreements with licensing agencies as are necessary to ensure the Council's establishments comply with all relevant statutory provisions.

8. To exercise the Council's duties pursuant to section 12C of the Children and Young Persons Act 1969.

**Chief Officer - Social Care and Health**

**Part 1** - Delegations to be exercised following consultation with Appropriate Members.

- 1. To make decisions to exempt persons from the usual fostering limit in accordance with paragraph 4 of Schedule 7 to the Children Act 1989.
- 2. To cancel an eviction in the event of a change in circumstances.
- 3. To approve the registration of HOMES applications within Council policy.
- 4. To determine all succession and assignment cases in accordance with Council policy.
- 5. To take action under the National Assistance Act 1948 to remove persons in need of care to hospital.
- 6. To determine whether repayment of housing renovation grants should be sought (where this is a discretionary matter).

**Part 2**

Children

- 1. To exercise all duties and functions of the Council under the Children and Young Persons Act 1969.
- 2. To exercise the powers and duties of the Council under Part III of the Children Act 1989 (Local Authority Support for Children and Families).

3. To commence such proceedings as are appropriate under Sections 25, 31, 34, 35, 39, 43, 44 and 49 of the Children Act 1989 and otherwise to exercise the powers and duties of the Council under Parts 4 (Care and Supervision) and 5 (Protection of Children) of the Act.
4. To exercise the duties of the Council under Section 7 of the Children Act 1989 to report to the court on the welfare of children in private proceedings.
5. To exercise the duties of the Council under Section 16 of the Children Act 1989, to provide advice, assistance and befriending under the terms of the Family Assistance Order.
6. To recover, vary or waive the charges for any service provided by the Council under Part 3 of the Children Act 1989.
7. To make contributions towards the maintenance of children placed with a person as a result of a Residence Order in accordance with paragraph 15 of Schedule 1 to the Children Act 1989.
8. To approve payment where appropriate of the legal expenses of applicants for orders under Section 8 of the Children Act 1989 in respect of children in care to the extent that they are not met by the Legal Aid Fund.
9. To consent to the change of names of children who are the subject of a Care Order in favour of the County Council subject to the requirements of Section 33 of the Children Act 1989.
10. To appoint an independent visitor for a child where appropriate in accordance with paragraph 17 of Schedule 2 to the Children Act 1989.
11. To guarantee apprenticeship and similar deeds under paragraph 18 of Schedule 2 to the Children Act 1989 and to guarantee tenancy agreements entered into on behalf of children to whom the Council have a responsibility under the provisions of the Children Act 1989.
12. To give consent to the marriage of a young person in care pursuant to Section 3 of the Marriage Act 1949.
13. To approve and sign applications for passports for children and young persons in the care of the Council.
14. To arrange for a child in care to live abroad subject to the approval of the court in accordance with paragraph 19 of Schedule 2 to the Children Act 1989.
15. To respond to the Local Education Authority who has consulted the Council under Section 36(8) of the Children Act 1989.
16. To approve the applications of children and young persons in the care of the Council who wish to join HM Forces.

17. To exercise the powers of the Council under paragraph 20 of Schedule 2 to the Children Act 1989 in relation to the death of children looked after by local authorities.
18. To exercise the functions of the Council under Part VI (Community Homes) of the Children Act 1989 in relation to the provision of accommodation for children in community homes.
19. To take such action as may be necessary to implement the payments of the various foster care allowances for the time being approved by the Council within current budgetary limits and in consultation with the Director of Finance and IT to increase the allowances annually.
20. To sanction payments of the cost of the initial clothing and equipment required by children looked after by the Council who are placed in boarding schools and other establishments within current budgetary limits.
21. To approve applications to go on school expeditions, including expeditions abroad, by children looked after by the Council, including expenditure on equipment and pocket money within current budgetary limits.
22. To make ex gratia payments in respect of damage or injury resulting from the action of children looked after by the Council.
23. To make payments to promote contact between parents and children looked after by the Council in accordance with paragraph 16 of Schedule 2 to the Children Act 1989.
24. To assess the contributions to be paid towards board and lodging by working children provided that the amount remaining of weekly personal pocket money and clothing allowance should not be less than the amount currently approved under the payment of foster care allowances.
25. To exercise the powers of the Council to make applications under Section 18 of the Adoption Act 1976.
26. To make applications under the Criminal Injuries Compensation Board Scheme for compensation in respect of children in care.

#### Adoption

27. To set up an adoption panel in accordance with Regulation 56 of the Adoption Agencies Regulations 1983 and to make such decisions and notifications as to the adoption of children as are specified in those Regulations.
28. To approve the institution of adoption proceedings by foster parents.
29. To approve the payment of legal expenses of prospective adoptive parents for children who are being placed for adoption by the Council as an adoption agency.

30. To grant allowances to persons who have adopted children in accordance with Section 57 of the Adoption Act 1976.

#### Guardian ad Litem Panel

31. To maintain a panel of Guardians ad Litem in accordance with the Guardians ad Litem and Reporting Officers (Panels) Regulations 1991.
32. To pay the fees and expenses of individual members of the panel in accordance with the Regulations.

#### Registration Functions

33. To exercise the powers conferred on the Council under Part IX (Private Arrangements for Fostering Children) of the Children Act 1989 in respect of arrangements for the care of privately fostered children.
34. In consultation with an authorised officer of the appropriate Health Authority, to approve the registration of nursing agencies under Section 2 of the Nurses Agencies Act 1957.
35. To exercise the functions of the Council under Sections 85, 86 and 87 of the Children Act 1989. (Notification of children accommodated in certain establishments).

#### Adult Services

36. To waive the assessment charge for any services to clients in circumstances where it is essential for the family for social and/or medical reasons and to record every case requiring such action in the register to be provided for this purpose.
37. To authorise and approve the maintenance costs for the admission of any person to any residential accommodation.
38. To authorise the following facilities for any registered disabled person within the approved budget and within approved policies:-
  - (a) Attendance at a centre providing appropriate development opportunities.
  - (b) The provision of special facilities.
  - (c) Minor alterations and adaptations to premises including the installation of appropriate equipment, the works to be supervised by the appropriate professional staff.
  - (d) Contribute where assessed as appropriate to the cost of adaptations to premises where the client is not eligible for a grant.

39. To act as receiver in all matters in which it is appropriate for an officer of the Council to so act.
40. To accept guardianship application and to make an order for discharge of patients subject to guardianship under the Mental Health Act 1983.
41. To appoint officers to act as approved social workers under the Mental Health Act 1993.
42. To make appropriate applications to the Court of Protection for receivership orders.
43. To exercise the Council's functions in relation to badges for disabled persons as drivers or passengers.
44. Within the approved policies and estimates of the Council to discharge the duties towards people with disabilities imposed upon the Council by the National Assistance Act 1948, the Chronically Sick and Disabled Persons Act 1970 and the Disabled Persons (Services Consultation Representation) Act 1986.
45. Within the provisions of the National Health Service and Community Care Act 1990 to arrange for provision of appropriate care service to those persons assessed as having needs that fall within the Council's agreed priorities subject always to appropriate contract and financial regulations, the approved estimates and policies of the Council.

#### Complaints

46. To make arrangements for the hearing of representations and complaints in accordance with Section 26 of the Children Act 1989 and the National Health Service and Community Care Act 1990; and to respond to and determine responses to recommendations of Complaint Review Panels (including application of financial redress) as considered appropriate within the framework of the Council's policies on remedies to complaints, financial regulations and, where necessary, in consultation with the Monitoring Officer.

## Proper Officers

In relation to the references and provisions mentioned in the first column of the schedule hereto:-

- (a) the officer specified in the second column of the schedule is hereby appointed the proper officer, and
- (b) the officer specified in the third column of the schedule is hereby appointed to act as proper officer when the first-mentioned officer is absent or otherwise unable to act
- (c) where no officer is specified in the third column, the first-mentioned officer is authorised to appoint a deputy as he considers fit

Any reference to a “Proper Officer” within this Constitution which is not defined in the Schedule hereto, shall mean the Head of Paid Service and when he/she is absent or otherwise unable to act, shall mean the Monitoring Officer.

## SCHEDULE

	Function	Proper Officer	Deputy
1.	Any reference in any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the following officers which, by virtue of any provisions of the said Act, is to be construed as a reference to the proper officer of the Council:  (a) Clerk or Town Clerk  (b) Engineer or Surveyor  (c) Public Health Inspector  (d) Housing Officer	Chief Executive  Head of Operations  Head of Democracy  Chief Officer – Enterprise	Monitoring Officer

2.	<p>The following provisions, namely:-</p> <p>In the National Assistance (Amendment) Act 1951 ) - s.1 )</p> <p><u>In the Registration Service Act 1953</u></p> <p><u>In the Local Government Act 1972</u></p> <p>- s.83 (1)-(4) ) Witness and receipt of declarations of acceptance of office ) - s.84 ) Receipt of declaration of resignation of office ) - s.88 (2) ) Convening of meeting of Council to fill casual vacancy in the office of Chairman ) - s.89 (1) (b) ) Receipt of notice of casual vacancy from two local government electors ) - s.96 (1) ) Receipt of notices of pecuniary interest ) - s.96 (2) ) Keeping record of disclosures of pecuniary interest under Section 94, and of notices under Section 96(1) ) - s.100B (2) ) Exclusion of reports likely to be considered in private session ) - s.100B (7) (c) ) Supply of papers to press ) - s.100C (2) ) - s.100D (1) (a) ) Compilation of lists of background papers ) - s.100D (5) (a) ) Identification of background papers ) - s.100F (2) ) Identification of papers disclosing certain exempt information (rights of members to inspect)</p>	<p>Head of Finance</p> <p>Head of Operations</p> <p>Chief Executive</p> <p>Chief Executive</p> <p>Monitoring Officer</p> <p>Head of Democracy</p> <p>Deputy Monitoring Officer</p> <p>Relevant Chief Officer</p> <p>Head of Democracy</p> <p>Head of Democracy</p> <p>As s.100B(2)</p> <p>As s.100B(2)</p> <p>Relevant Chief Officer</p>	<p>Monitoring Officer</p> <p>Head of Democracy</p> <p>Deputy Monitoring Officer</p>
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- s.115 (2) Receipt of money due from officers	S151 Officer
- s.146 (1)(a)&(b) Declarations and certificates with regard to securities	S151 Officer
- s.191 Functions with respect to ordnance survey	Head of Operations
- s.204(3) ) Receipt of applications for ) Licence under Schedule 2, ) Licensing Act 1964 )	Monitoring Officer
- s.210(6)(7) ) Officer for the purpose of ) certain charities )	Monitoring Officer
- s.225(1)&(2) ) Deposit of documents, and ) on behalf of a community ) without a Community ) Council. )	Monitoring Officer
- s.229(5) ) Certification of photographic ) copies of documents ) )	
- s.234(1)(2) ) Authentication of documents ) )	
- s.236(9)(10) ) Officer to send copies of ) bylaws ) )	Monitoring Officer
- s.238 ) Certification of byelaws )	
Schedule 12 paragraph (2)(b) ) signature of summonses to ) Council meetings )	Chief Executive
Schedule 14 paragraph 25(7) Certification of resolutions under paragraph 25	Monitoring Officer
Schedule 16 paragraph 28 Receipt on deposit of lists of protected buildings	Monitoring Officer
<u>In the Local Government Act 1974</u>	
- s.30(5) Publication of reports of Local Commissioner	Monitoring Officer



	<p><u>In the Local Government (Miscellaneous Provisions) Act 1976</u></p> <p>- s.41 Certification of copies of resolutions orders, reports, minutes, and instruments of appointment or authorisation</p> <p><u>In the Public Health (Control of Diseases) Act 1984</u></p> <p><u>In the Local Government and Housing Act 1989</u></p> <p>- s.2(4) Receipt on deposit of ) first and revised lists of ) politically restricted posts ) )</p> <p>In the Local Government ) (Committees and Political ) Groups) Regulations 1990 ) )</p> <p>In the Local Authorities ) (Members' Interests) ) Regulations 1992 )</p>	<p>Monitoring Officer</p> <p>Environmental Health Manager</p> <p>Monitoring Officer</p> <p>Chief Executive</p> <p>Monitoring Officer</p>	<p>Named Environmental Health and other Officers as may be approved by the Environmental Health Manager as competent and duly authorised by the Head of Democracy and Regulatory Services</p>
3.	Where a Council function has been delegated to a specified officer and that function requires or otherwise involves action by the proper officer then for those purposes the proper officer shall be	The officer to whom the function is delegated	
4.	Until the Council determines otherwise, the Chief Executive is appointed the proper officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express proper officer appointment has for the time being been made.		

5.	Notwithstanding anything to the contrary above, where any order, notice or other document requires the seal of the Council to be attached then the proper officer for the authentication of such order, notice or other document shall be	Head of Legal Services	Monitoring Officer, Deputy Head of Legal Services or a Solicitor employed by the Council
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**Other Specified Officer Posts**

In relation to the references and provision mentioned in the first column of the schedule hereto:-

- (a) the officer specified in the second column of the schedule is hereby appointed or nominated, as the case may be.
- (b) the officer specified in the third column of the schedule shall act in that first-mentioned officer's capacity when he is absent or otherwise unable to act.

**Schedule**

1	2	3
1	Nomination of a registered medical practitioner under sections 35 and 36 of the Public Health (Control of Disease) Act 1984	Consultant in Communicable Disease Control (Gwent Health Authority)
2	Officers to be appointed under the Local Government Act 1972 - s.39 (Registration Officer) - s.41(1) (Returning Officer) - s.151 (Administration of financial affairs)	Chief Executive Chief Executive s.151 Officer
3	Local Government and Housing Act 1989 Head of Paid Service Monitoring Officer	Chief Executive Monitoring Officer
4	Weights and Measures Act 1985 (s72) Chief Inspector of Weights and Measures Officers authorised to sign certificates under the Local Government (Contracts) Act 1997	Head of Public Health and Culture
5		Monitoring Officer Head of Legal Services

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## **PART 4 – RULES OF PROCEDURE**

### **Council Procedure Rules (Standing Orders)**

#### **CONTENTS**

##### **Rule**

1. Annual meeting of the Council
2. Ordinary meetings
3. Extraordinary meetings
4. Appointment of substitute members of committees and sub-committees
5. Time and place of meetings
6. Notice of and summons to meetings
7. Chair of meeting
8. Quorum
9. Questions by the public
10. Questions by members
11. Motions on notice
12. Motions without notice
13. Rules of debate
14. State of Monmouthshire debate
15. Previous decisions and motions
16. Voting
17. Minutes
18. Record of attendance
19. Exclusion of public
20. Members' conduct
21. Disturbance by public
22. Suspension and amendment of Council Procedure Rules
23. Application to committees and sub-committees

#### **1. ANNUAL MEETING OF THE COUNCIL**

##### **1.1 Timing and business**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) elect a person to preside if the Chairman of Council is not present;
- (ii) elect the Chairman of Council;

- (iii) elect the vice Chairman of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or head of the paid service;
- (vi) elect the Leader;
- (vii) to be told by the Leader of the names of councillors he/she has chosen to be member of the cabinet
- (viii) appoint at least one select committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- (ix) determine which political group shall nominate the Chair of each Overview & Scrutiny Committee appointed under (vii) above, having regard to the guidance issued under the Local Government (Wales) Measure 2011.
- (x) agree such part of the scheme of delegation as the Constitution determines it is for the Council to agree (as set out in Part 3 Table 3 of this Constitution);
- (xi) approve a programme of ordinary meetings of the Council for the year; and
- (xii) consider any business set out in the notice convening the meeting.

## **1.2 Selection of Councillors on Committees and Outside Bodies**

At the annual meeting, the council meeting will:

- (i) decide which committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors to serve on each committee and outside body; and
- (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated or is exercisable only by the executive.

## **2. ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chairman and Vice Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Chairman, Leader, members of the cabinet or the head of paid service;

(v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;

(vi) deal with any business from the last Council meeting;

(vii) receive reports from the executive, select committees and the Council's committees and receive questions and answers on any of those reports;

(viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

(ix) consider motions; and

(x) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the select committees for debate.

### **3. EXTRAORDINARY MEETINGS**

#### **3.1 Calling extraordinary meetings.**

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

i) the Council by resolution;

ii) the Chairman of the Council;

iii) the monitoring officer; and

iv) any five members of the Council if they have signed a requisition presented to the Chairman of the council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### **4. APPOINTMENT OF MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

The Council or Committee may appoint members to a committee or sub-committee as the case may be:

(i) by naming the members so appointed or

(ii) by reference to such numbers of members as a specified political group or groups shall from time to time nominate

When members are appointed under paragraph 4.01(ii) the political group in question shall notify the Chief Executive in writing of the names of the members who may nominate.

A political group may from time to time change its membership of a committee (whether the member of members were appointed under paragraph 4.01(i) or (ii)) by giving notice in writing to the Chief Executive.

A notice given under paragraph 4.02 or 4.03 shall have effect three clear days after receipt of such notice.

On receipt of the notice under paragraph 4.02 or 4.03 the Chief Executive shall -

- (a) make or terminate the appointment accordingly; and
- (b) immediately notify the leaders of the other political groups and the Chairman of the committee or sub-committee concerned.

The decisions of a political group are to be taken as those expressed to the Chief Executive

- (i) in writing by the leader or other representative of the group concerned
- (ii) in a written statement signed by a majority of the members of the group

AND in the event that different decision of a political group are notified, the decision notified in accordance with sub-paragraph (ii) shall prevail.

This rule of procedure applies to appointments to committees, sub-committees and other informal groupings of members but not to appointments or nominations on external bodies.

#### **5. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Chief executive and notified in the summons.

#### **6. NOTICE OF AND SUMMONS TO MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least three clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **7. CHAIR OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the Chairman also include the Chairman of committees and sub-committees.

#### **8. QUORUM**

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **9. QUESTIONS BY THE PUBLIC**

##### **9.1 General**

For a period of up to 15 minutes, members of the public may ask questions of members at ordinary meetings of the Council.

##### **9.2 Order of questions**

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

### **9.3 Notice of questions**

Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

### **9.4 Scope of questions**

The Chairman may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

### **9.5 Record of questions**

The Monitoring Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

### **9.6 Asking the question at the meeting**

The Chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

### **9.7 Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 9.4 above.

### **9.8 Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

### **9.9 Reference of question to the executive or a committee**

Unless the Chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the executive, the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.



## **10. QUESTIONS BY MEMBERS**

### **10.1 On reports of the executive or committees**

A member of the Council may ask the Leader or the Chairman of a committee (including select committees) any question without notice upon an item of the report of the executive (or individual executive member) or a committee when that item is being received or under consideration by the Council.

### **10.2 Questions on notice at full Council**

Subject to Rule 10.4, a member of the Council may ask:

- the Chairman of the council;
- a member of the executive; or
- the Chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects Monmouthshire.

### **10.3 Questions on notice at committees and sub-committees**

Subject to Rule 10.4, a member of a committee or sub-committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect Monmouthshire and which falls within the terms of reference of that committee or sub-committee.

10.4 – A member may only ask a question under Rule 10.2 or 10.3 if either:

- (a) they had given at least five clear working days' notice in writing of the question to the Proper Officer; or
- (b) the question relates to urgent matters, they have the consent of the Chair to the meeting and the content of the question is given to the Proper Officer at least two hours before the meeting.

### **10.5 Response**

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

### **10.6 Supplementary question**

A member asking a question under Rule 10.2 or 10.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

## **11. MOTIONS ON NOTICE**

### **11.1 Notice**

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least one member, must be

delivered to Monitoring Officer not later than 5 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

### **11.2 Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

### **11.3 Scope**

Motions must be about matters for which the Council has a responsibility or which affect Monmouthshire.

## **12. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

## **13. RULES OF DEBATE**

### **13.1 No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### **13.2 Right to require motion in writing**

Unless notice of the motion has already been given, the Chairman may

require it to be written down and handed to him/her before it is discussed.

### **13.3 Secunder's speech**

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### **13.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed ten minutes without the consent of the Chairman.

### **13.5 When a member may speak again**

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

### **13.6 Amendments to motions**

(a) An amendment to a motion must be relevant to the motion and will either be:

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

(b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

(c) If an amendment is not carried, other amendments to the original motion may be moved.

(d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

(e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### **13.7 Alteration of motion**

(a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

(b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

(c) Only alterations which could be made as an amendment may be made.

### **13.8 Withdrawal of motion**

A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

### **13.9 Right of reply**

(a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

(c) The mover of the amendment has no right of reply to the debate on his or her amendment.

### **13.10 Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

(a) to withdraw a motion;

(b) to amend a motion;

(c) to proceed to the next business;

(d) that the question be now put;

(e) to adjourn a debate;

(f) to adjourn a meeting;

(g) to exclude the public and press in accordance with the Access to Information Rules; and

(h) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

### **13.11 Closure motions**

(a) A member may move, without comment, the following motions at the end of a speech of another member:

(i) to proceed to the next business;

(ii) that the question be now put;

(iii) to adjourn a debate; or

(iv) to adjourn a meeting.

(b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

(c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

(d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **13.12 Point of order**

A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

### **13.13 Personal explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

## **14. STATE OF MONMOUTHSHIRE DEBATE**

### **14.1 Calling of debate**

The Leader will call a state of Monmouthshire debate annually on a date and in a form to be agreed with the Chairman of the council.

### **14.2 Form of debate**

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of Monmouthshire debate.

### **14.3 Chairing of debate**

The debate will be chaired by the Chairman of the council.

### **14.4 Results of debate**

The results of the debate will be:

(i) disseminated as widely as possible within the community and to agencies and organisations in the area; and

(ii) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

## **15. PREVIOUS DECISIONS AND MOTIONS**

### **15.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least eleven members.

### **15.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least eleven members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **16. VOTING**

### **16.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

### **16.2 Chairman's casting vote**

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

### **16.3 Show of hands**

Unless a recorded vote is demanded under Rule 16.4, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **16.4 Recorded vote**

If nine members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

### **16.5 Right to require individual vote to be recorded**

*This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 2006.*

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### **16.6 Voting on appointments**

For officer appointments, the vote will take place by ballot. For all appointments, if there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## **17. MINUTES**

### **17.1 Signing the minutes**

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### **17.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

*This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 2006. The language is constrained by that permitted in the regulations.*

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **17.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

## **18. RECORD OF ATTENDANCE**

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## **19. PRESENTATION OF PETITIONS**

- (1) At a meeting of the Council any member of the Council may present a petition, signed by person other than members of the Council, which is relevant to some matter in relation to which the Council or Cabinet have functions, or which affects the area of the Council, or part of it, or the inhabitants of that area, or some of them. The member presenting the petition shall satisfy himself that the petition is proper to be received.
- (2) A member wishing to present a petition shall give notice of his intention to do so to the Chief Executive before the beginning of the meeting at which he wishes to present it.
- (3) The presentation of a petition shall be limited to not more than three minutes, and shall be confined to reading out, or summarising, the prayer of the petition, indicating the number and description of the signatories.
- (4) Petitions shall be presented in the order in which notice of them is received by the Chief Executive.
- (5) A petition presented at a meeting of the Council shall stand referred to a future meeting of the Cabinet or relevant committee, in order that the appropriate chief officer may present a report on the subject matter of the petition.

## **20. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

## **21. MEMBERS' CONDUCT**

### **21.1 Standing to speak**

When a member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

### **21.2 Chairman standing**

When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

### **21.3 Member not to be heard further**

If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

### **21.4 Member to leave the meeting**

If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### **21.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

## **22. DISTURBANCE BY PUBLIC**

### **22.1 Removal of member of the public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

### **22.2 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

## **23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **23.1 Suspension**

All of these Council Rules of Procedure except Rule 16.5 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.



## **23.2 Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

At the discretion of the Chairman, any of the Council Rules of Procedure will be subject to 'reasonable adjustment' by suspension or amendment and without notice as appropriate, to prevent a disabled elected member or member of the public being placed at a disadvantage in terms of their proper participation in any aspect of Council procedures.

## **24. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of full Council. Only Rule 16.5 applies to meetings of the Executive. Only Rules 5–8, 10–13, 15–24, (but not Rule 21.1) apply to meetings of committees sub-committees and relevant joint committees

## **PROCEDURE RULES FOR FAMILY ABSENCE FOR MEMBERS**

### **Different Types of Family Absence**

1. A Member may be entitled to family absence subject to compliance with the Family Absence for Members of Local Authorities (Wales) Regulations 2013 (“the Regulations”), as follows:

- (i) Maternity absence – for the mother of a child, granted up to a maximum of twenty six weeks;
- (ii) Newborn absence – for the parent of a child other than the mother, for a period of up to two weeks;
- (iii) Adopter’s absence – for the adopter of a child, for a period of up to two weeks;
- (iv) New adoption absence - for the partner of an adopter, for a period of up to two weeks; and
- (v) Parental absence – for a Member who becomes responsible for a child (and does not meet the conditions for newborn absence, adopter’s absence or new adoption absence), for a period of up to three months.

### **Prescribed Conditions**

2. The Regulations prescribe the conditions Members must satisfy to be entitled to each type of family absence, make provisions regarding the durations, start, cancellation and end of periods of family absence, and set out the administrative process for dealing with family absences. A copy of the Regulations can be obtained from the Head of Democratic Services and must be referred to by any Member considering taking family absence.

### **Requirement for Member to give Written Notice**

3. A Member intending to take family absence is required to give written notice to the Head of Democratic Services, specifying the type of family

absence the Member intends to take and the intended start date, as well as certain other specified information in respect of particular types of family absence. Any changes to, or cancellation of, family absence must similarly be notified to the Head of Democratic Services. Members should refer to the Regulations for the prescribed information which must be included in the notice, and advice is available in this respect from the Head of Democratic Services.

### **Records and Notification of Family Absence**

4. The Head of Democratic Services will keep a record of all notifications and periods of family absence taken and will inform the Chair of Council, the Chair of the Democratic Services Committee, and the leaders of each political group, and other recognised group, of the authority. The Head of Democratic Services may also inform any other persons, as he/she considers necessary, for example, fellow ward Members.

### **Cancellation of Family Absence by Council**

5. If the Head of Democratic Services reasonably suspects that a Member may not be entitled to the family absence notified, he/she may cancel or end a Member's family absence in accordance with the Regulations.

6. In the event of a decision to cancel family absence, the Head of Democratic Services will give written notice to the Member concerned setting out the decision to cancel or bring to an end the period of family absence, and the date from which the Member must return from family absence. If the Member then fails to resume duties, the Council may withhold the Member's remuneration.

### **Members' Right to Appeal against Cancellation**

7. (1) A Member may, within 28 days from being notified of a cancellation of family absence, complain in writing to the Head of Democratic Services regarding the cancellation.

(2) The Head of Democratic Services will refer any complaint duly made regarding cancellation to the Chair of Council (or Presiding Member).

(3) The Member's complaint will be considered by a politically balanced Panel, drawn from the Democratic Services Committee, which may either confirm the decision of the Head of Democratic Services, or substitute its own decision as to the Member's entitlement to family absence in accordance with the Regulations.

(4) The decision of the Panel is final.

### **Performance of Duties – At Member's request**

*The following provision is subject consideration by the Democratic Services committee as to whether*

*(i) To describe the circumstances in which a Member on maternity or parental leave may continue to perform some duties if so desired, such as "where the Member has a well-known particular interest in a matter of business or if urgent business affecting their local area is being considered"; and*

*(ii) To provide whether any duty conferred on Members should be performed during a period of family absence.*

8. (1) A Member on maternity absence or parental absence may, subject to paragraphs (2) to (6):

- (a) Attend particular meetings;
- (b) Attend particular descriptions of meetings;
- (c) Perform particular duties; or
- (d) Perform duties of a particular description.

(2) The Member must obtain the permission of the Chair of Council (or Presiding Member) before attending any meeting or performing any duty.

(3) The Chair of Council (or Presiding Member) will inform the leaders of each political group of the Council before granting permission under paragraph (2).

(4) A Member may complain in writing to the Head of Democratic Services regarding a refusal under paragraph (2).

(5) The Head of Democratic Services will refer a complaint under paragraph (4) to the Chair of Council (or Presiding Member).

(6) The Family Absence Appeals Panel ("the Panel") will determine a complaint made under paragraph (4).

(7) The Panel may:

(a) confirm the decision of the Chair of Council (or Presiding Member) under paragraph (2); or 258

(b) substitute its own decision as to the Member attending any meeting or performing any duty.

### **Continuing Duties**

9. If a Member is on family absence leave and it would be difficult to replace that Member on a temporary basis, the Chair of Council can request that Member attend a meeting if it might otherwise be inquorate.

10. A Member on family absence is expected to continue to observe and comply with any duties under the Members' Code of Conduct which remain applicable, including the duty to not bring the office of Member or the Council into disrepute (Members' Code, Rule 6(1)(a)), and the duty to not use their position or the resources of the authority improperly or for private advantage (Members' Code, Rule 7).

### **Members Allowances**

11. In accordance with the determinations of the Independent Remuneration Panel for Wales, a Member on family absence is entitled, for the duration of the absence, to retain a basic salary and any senior salary for which the Member is eligible.

## **Access to Information Procedure Rules**

### **1. SCOPE**

These rules apply to all meetings of the Council, the executive, select committees, area committees, the Standards Committee and regulatory committees.

### **2. ADDITIONAL RIGHTS TO INFORMATIONS**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

### **4. NOTICES OF MEETING**

The council will give at least three clear days notice unless to consider urgent items as defined of any meeting by posting details of the meeting at County Hall Cwmbran. (The Designated Office)

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least three clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

### **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or record of decisions taken by the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

### **8.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at County Hall.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Public and private meetings of the executive**

The executive may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting that complies with Article 13 and these procedure rules. This does not prevent the executive from holding informal deliberations in private, with or without officers present, but these meetings shall not take decisions.

### **10.2 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **10.3 Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **10.4 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### **10.5 Meaning of exempt information**

Exempt information means information falling within the following 10 categories (subject to any qualification):

CATEGORY	QUALIFICATION
1. Information relating to a particular individual.	Public interest test applies (see below)
2. Information which is likely to reveal the identity of an individual.	Public interest test applies (see below)
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered under —</p> <p>the Companies Act 1985;  the Friendly Societies Act 1974;  the Friendly Societies Act 1992;  the Industrial and Provident Societies Acts 1965 to 1978;  the Building Societies Act 1986; or  the Charities Act 1993.</p> <p>Public interest test applies (see below)</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Public interest test applies (see below)
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes :  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  (b) to make an order or direction under any enactment.	Public interest test applies (see below)
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Public interest test applies (see below)
<p><i>(In relation to a meeting of a standards committee, or a sub-committee of a standards committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000):</i></p> <p>8. Information which is subject to any obligations of confidentiality.</p>	Public interest test applies (see below)

CATEGORY	QUALIFICATION
<p>9. Information which relates in anyway to matters concerning national security.</p> <p>10. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.”.</p>	

**Public Interest Test:**

Information which —

- (a) falls within any of paragraphs 12 to 15, 17 and 18 above; and
- (b) is not prevented from being exempt by virtue of the ‘qualifications’ above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information falling within any of paragraphs 1-10 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

**10.6 DISCLOSURE BY MEMBERS**

Members will not make public Confidential or Exempt Information without the consent of the Authority or divulge information given in confidence to anyone other than a member or officer entitled to know it unless otherwise authorised.

**10.7 PUBLIC INTEREST**

Information within Categories 1 to 4, 6 and 7 set out in Rule 10.4 may only be treated as exempt if an assessment of the public interest has been made.

The public interest should be assessed on a case by case basis having regard to all relevant factors, to ensure a proper balance is achieved between the right to know, the right to personal privacy and the delivery of effective government.

In making such an assessment the proper officer should have regard to any relevant prejudice which may be caused to the Authority or any other party if the information were disclosed, having regard to the full context of any disclosure. Account may be taken of whether disclosure would breach any obligation of confidence or the rights of any individual under the Data Protection Act 1998 or the Human Rights Act 1998.

Account will be taken of the fact that the public interest may be served by allowing access to information which would:-

- (a) further the understanding of and participation in debating issues of the day;

- (b) facilitate transparency and accountability in and enhance scrutiny of decisions taken by the Authority;
- (c) facilitate transparency and accountability in the spending of public money;
- (d) help individuals understand the decisions made by the Authority affecting their lives;
- (e) bring to light information affecting public safety or danger to the environment;
- (f) contribute to the administration of justice and enforcement of the law or the prevention or detection of crime or the apprehension or prosecution of offenders;
- (g) protect the public from unsafe products or rogue traders or practices;

In making such an assessment the following factors should be regarded as irrelevant:

- (a) possible embarrassment to the Authority or its Officers;
- (b) possible loss of confidence in the Authority or another public body;
- (c) the seniority of persons involved in the subject matter;
- (d) the risk of the public misinterpreting the information.

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12. THE FORWARD WORK PROGRAMME**

### **12.1 Period of forward work programme**

The forward work programme will be prepared by the Chief Executive to cover a period of four months. It will be updated quarterly on a rolling basis.

### **12.2 Contents of forward work programme**

The forward work programme will contain matters which the executive, select committees and full Council are likely to consider. It will contain information on:

- (a) the timetable for considering the budget and any plans forming part of the policy framework and requiring council approval, and which body is to consider them;
- (b) the timetable for considering any plans which are the responsibility of the executive;
- (c) any individual matters on which the executive intends to consult in advance of taking a decision, and the timetable for consultation and decision;



(d) the work programme of the select committees, to the extent that it is known.

### **13. CONSULTATION ON PROPOSALS TO BE CONSIDERED BY THE EXECUTIVE**

At least two weeks should be permitted in the forward plan timetable for consultation with relevant select committees and ward members where a matter is to be considered by the executive and is not urgent (as defined below) or confidential or exempt (as defined in para 10).

A matter may be considered urgent where the events to which it is addressed were unforeseen at the time that the last forward work programme was produced and a decision is required within (the minimum time provided for consultation as specified above).

A decision can only be treated as urgent if the decision taker (if an individual) or the chair of the body making the decision obtains the agreement of the chair of a relevant select committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant select committee, or if the chair of each relevant select committee is unable to act, then the agreement of the Head of Paid Service of the Council, will suffice. Any decisions taken under this urgency procedure will be recorded as having been taken in the absence of consultation in the decision record.

### **14. RECORD OF DECISIONS OF THE EXECUTIVE**

#### **14.1 The decision record**

(a) A written record will be made of every executive decision made by the executive and its committees (if any) and individual members, and to joint committees and joint sub-committees whose members are all members of a local authority executive.

(b) This decision record will include a statement, for each decision, of:

1. the decision made
2. the date the decision was made
3. the reasons for that decision;
4. any personal interest declared;
5. any dispensation to speak granted by the authority's standards committee;
6. the consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.

#### **14.2 Preparing the decision record**

(a) The proper officer or his or her representative shall attend any meeting of the executive, a committee of the executive or a joint committee or joint sub-committee where all its members are members of a local authority executive, and shall as soon as reasonably practicable after the meeting produce a decision record.

(b) Where an individual member has made any executive decision,

- i. that member shall as soon as reasonably practicable instruct the proper officer to produce a decision record; and

ii. the decision shall not be implemented until that decision record has been produced, subject to (c) below.

(c) Where the date by which an executive decision made by an individual member must be implemented makes compliance with (b) ii above impracticable, the decision may be implemented if the decision maker has the agreement of the Chairman (or in his/her absence, the vice-chairman) of the relevant select committee, that the making of the decision is urgent and cannot reasonably be deferred.

## **15. DECISIONS BY AN INDIVIDUAL MEMBER OF THE EXECUTIVE**

### **15.1 Reports intended to be taken into account**

Where an individual member of the executive receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least 3 clear days after receipt of that report.

### **15.2 Provision of copies of reports to select committees**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant select committee as soon as reasonably practicable, and make it publicly available at the same time.

### **15.3 Record of individual decision**

The decision recording rules in para. 14 will apply.

## **16. SELECT COMMITTEE MEMBERS' ACCESS TO DOCUMENTS**

### **16.1 Rights of access**

Subject to Rule 16.2 below, a select committee (including its sub-committees) will be entitled to access to any document which is in the possession or control of the executive or its committees and which contains material relating to

- (a) any business transacted at a meeting of the executive or its committees; or
- (b) any decision taken by an individual member of the executive.

### **16.2 Limit on rights**

A select committee or sub-committee will not be entitled to any part of a document that contains:

- (a) confidential or exempt information, or
- (b) advice provided by a political advisor or assistant

unless that information is relevant to an action or decision that is being reviewed or scrutinised or any review contained in a programme of work of that committee or sub-committee.

### **16.3 Disclosure**

Exempt or confidential information supplied to a member in accordance with Rule 15.1 remains exempt or confidential.

## **17. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **17.1 Rights of access**

All members will be entitled to inspect any document which is in the possession or under the control of the executive or its committees and contains material relating to any business transacted at a meeting of a decision making body of that authority or by an individual member of the executive.

### **17.2 Limitation on rights**

A member will not be entitled to any part of a document where

- (a) it would disclose exempt information falling within paragraphs 12 to 18, 21, 23, 24 and 26 of Schedule 12A of the Local Government Act 1972, or
- (b) it would disclose advice of a political advisor or assistant.

### **17.3 Nature of rights**

These rights of a member are additional to any other right he/she may have.

# **Budget and Policy Framework Procedure Rules**

## **1. The framework for executive decisions**

The Council will be responsible for the adoption of its policy framework and budget as set out in Article 4. The policy framework and budget adopted by the Council will be based on that proposed by the executive. Once a budget or a policy framework is in place, it will be the responsibility of the executive to implement it

## **2. Process for developing the framework**

The process by which the policy framework and budget shall be developed is:

(a) The executive will publicise by including in the forward plan and at the Council's offices a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The chairmen of select committees will also be notified. The consultation period shall in each instance be not less than six weeks.

(b) At the end of that period, the executive will then draw up firm proposals having regard to the responses to that consultation. If a relevant select committee wishes to respond to the executive in that consultation process then it may do so. As the select committees have responsibility for fixing their own work programme, it is open to the select committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The executive will take any response from a select committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the executive's response.

(c) Once the executive has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.

(d) In reaching a decision, the Council may adopt the executive's proposals, amend them, refer them back to the executive for further consideration, or in principle, substitute its own proposals in their place.

(e) If it accepts the recommendation of the executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

(f) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.

(g) An in-principle decision will automatically become effective five days from the date of the Council's decision, unless the Leader informs the proper officer in writing within five days that he/she objects to the decision becoming effective and provides reasons why.

(h) In that case, the proper officer will call a Council meeting within a

further ten days. The Council will be required to re-consider its decision and the Leader's written submission at that meeting. The Council may

i) approve the executive's recommendation by a simple majority of votes cast at the meeting; or

ii) approve a different decision which does not accord with the recommendation of the executive by a simple majority

(i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately;

(j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. Decisions outside the budget or policy framework**

(a) Subject to the provisions of paragraph 5 (virement) the executive, a committee of the executive, an individual member of the executive and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to 4 below.

(b) If the executive, a committee of the executive, an individual member of the executive and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. Urgent decisions outside the budget or policy framework**

(a) The executive, a committee of the executive, an individual member of the executive or officers, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

i) if it is not practical to convene a quorate meeting of the full Council; and

ii) if the chairman (or if he/she is unavailable the vice chairman) of a relevant select committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chairman of the relevant select committees' consent to the

decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairman of a relevant select committee the consent of the Chairman of the Select Board will be sufficient.

(b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **5. Virement**

The Council operates a scheme enabling controlled virement of revenue and capital expenditure as detailed within its Financial Procedure Rules.

## **6. In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the executive, a committee of the executive an individual member of the executive or officers, area committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which makes up the policy framework may be made by those bodies or individuals except those changes:

(a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

(b) necessary to ensure compliance with the law, ministerial direction or government guidance;

(c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## **7. Call-in of decisions outside the budget or policy framework**

(a) Where a select committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer and/or chief financial officer.

(b) In respect of functions which are the responsibility of the executive, the monitoring officer's report and/or chief financial officer's report shall be to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive must meet to decide what action to take in respect of the monitoring officer's report and to prepare a report to Council in the event that the monitoring officer or the chief finance officer conclude that the decision was a departure, and to the select committee if the monitoring officer or the chief finance officer conclude that the decision was not a departure.

(c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and/or the chief financial officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the select committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet twenty-one days of the request by the select committee. At the meeting it

will receive a report of the decision or proposals and the advice of the monitoring officer and/or the chief financial officer. The Council may either:

i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way;

*Or*

ii) amend the council's budget or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

*Or*

iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the monitoring officer/chief financial officer.

# **Executive Procedure Rules**

## **1. HOW DOES THE EXECUTIVE OPERATE?**

### **1.1 Who may make executive decisions?**

The arrangements for the discharge of executive functions are set out in Part 3. In either case, the arrangements or the Leader may provide for executive functions to be discharged by:

- i) the executive as a whole;
- ii) a committee of the executive;
- iii) an individual member of the executive;
- iv) an officer;
- v) an area committee;
- vi) joint arrangements; or
- vii) another local authority.

### **1.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- i) the names, addresses and electoral divisions of the people appointed to the executive by the Leader;
- ii) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- iii) the terms of reference and constitution of such executive committees as the Leader appoints and the names of executive members appointed to them;
- iv) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and
- vi) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **1.3 Sub-delegation of executive functions**

- (a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the executive, then the executive may delegate further to a committee of the executive or to an officer.



(c) Unless the Leader directs otherwise, a committee of the executive to whom functions have been delegated by the Leader may delegate further to an officer.

(d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### **1.4 The Council's scheme of delegation and executive functions**

(a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

(b) If the Leader is able to decide whether to delegate executive functions, he/she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

(c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chairman.

#### **1.5 Conflicts of Interest**

(a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

(b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

(c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.6 Executive meetings – when and where?**

The executive will meet at least three times per year at times to be agreed by the Leader. The executive shall meet at the Council's main offices or another location to be agreed by the Leader.

#### **1.7 Public or private meetings of the executive?**

*The Access to Information Rules in Part 4 of this Constitution set out the legal requirements covering public and private meetings. There is no specific requirement in relation to frequency or place, though schedule 1 to the Local Government Act 2000 allows authorities to*

*make provision about the conduct of executive meetings. Any such provision should be set out in this part of the constitution.*

### **1.8 Quorum**

The quorum for a meeting of the executive, or a committee of it, shall be one quarter of the total number of members of the executive (including the Leader), or 3 including the Leader, whichever is the larger.

### **1.9 How are decisions to be taken by the executive?**

(a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

(b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.

## **2. HOW ARE THE EXECUTIVE MEETINGS CONDUCTED?**

### **2.1 Who presides?**

The Leader will preside at any meeting of the executive or its committees at which he/she is present, or may appoint another person to do so.

### **2.2 Who may attend?**

These details are set out in the Access to Information Rules in Part 4 of this Constitution. In addition, the Leaders of each political group on the Council may attend any meeting of the Executive as approved duty.

### **2.3 What business?**

At each meeting of the executive the following business will be conducted:

- i) declarations of interest, if any;
- ii) matters referred to the executive (whether by an select committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Select Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- iii) consideration of reports from select committees; and
- iv) matters set out in the agenda for the meeting.

### **2.4 Consultation**

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant select committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **2.5 Who can put items on the executive agenda?**

The Leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive,

a committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the executive where a relevant select committee or the full Council have resolved that an item be considered by the executive.

Any member of the Council may ask the Leader to put an item on the agenda of an executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, as approved duty whether or not it is a public meeting.

The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, chief financial officer and monitoring officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

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## Select Committee Procedure Rules

### 1. What will be the number and arrangements for select committees?

The Council will have the select committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees. Select committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

The Council will also establish a Select Board to provide a link with the Executive and to consider matters of joint interest. It will comprise of the Chairman of the Select Committees, a nominated member of the Executive and the Leader of the other political groups within the Council. The Select Board will have the following roles and functions:

- (a) To approve the select committees' work programmes, to ensure that there is efficient use of the committees' time, and that the potential for duplication of effort is minimised.
- (b) Where matters fall within the remit of more than one select committee or sub-committee, to provide a forum for discussion as to which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between select committees.
- (c) To receive requests from the executive and/or the full Council for reports from select committees and to allocate them if appropriate to one or more select committees.
- (d) To put in place and maintain a system to ensure that referrals from select committees to the executive, and from the executive to select committees either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution.
- (e) At the request of the executive, to make decisions about the priority of referrals made in the event of reports to the executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.

### 2. Who may sit on select committees?

All councillors except members of the executive may be members of a select committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

### 3. Co-optees

Each select committee or sub-committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

In discharging its crime and disorder functions, the Strong Communities Select Committee may co-opt officers, employees or members of Responsible Authorities or Co-operating Persons or Bodies (as defined by section 5 of the Crime and Disorder Act 1998. Co-optees cannot be

members of the Council's Executive and no co-optee is entitled to vote, unless the Committee allows it. Co-optees may be appointed for a particular matter or type of matter and membership may be withdrawn at any time by the Committee.

#### **4. Education representatives**

Each relevant select committee/sub-committee dealing with education matters shall include in its membership the following voting representatives:

- (a) One Church in Wales representative;
- (b) One Roman Catholic Church representative;
- (c) Two parent governor representatives; and

A relevant select committee/sub-committee in this paragraph is a select committee or sub-committee of a local education authority, where the committee or sub-committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's executive. If the select committee/sub-committee deals with other matters, these representatives shall not vote on those other matters and may only attend as co-opted members of the committee for discussion of those other matters if invited to do so.

#### **5. Meetings of the select committees**

There shall be at least three ordinary meetings of each select committee in each year. Ordinary meetings will be convened in accordance with the timetable agreed annually by Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A select committee meeting may be called by the chairman of the relevant select committee, by any three members of the committee or by the proper officer if he/she considers it necessary or appropriate.

#### **6. Quorum**

The quorum for a select committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

#### **7. Who chairs select committee meetings?**

Each select committees/sub-committees will be chaired by a councillor appointed by it. Each select committee will appoint a vice chairman.

#### **8. Work programme**

In considering its work programme, each Select Committee shall take into account the wishes of the coordinating committee and of members on the committee who are not members of the largest political group on the Council.

#### **9. Agenda items**

Any member of a select committee or sub-committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for, and be discussed at, a meeting of the committee or sub-committee.

Any member of the Council may refer a local crime and disorder matter (as

defined in Section 19 of the Police & Justice Act 2006) to the Strong Communities Select Committee for inclusion on the agenda and a discussion at a meeting of the committee.

On receipt of any such requests the proper officer will ensure that it is included on the next available agenda.

The select committees shall also respond, as soon as their work programme permits, to requests from the Council, the Coordinating Board and if it considers it appropriate the executive to review particular areas of Council activity. Where they do so, the select committee shall report their findings and any recommendations back to the Council and/or executive.

#### **10. Policy review and development**

(a) The role of the select committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

(b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, select committee or sub-committees may make proposals to the executive for developments in so far as they relate to matters within their terms of reference.

(c) Select committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **11. Reports from select committee**

(a) Once it has formed recommendations on proposals for development, the select committee will prepare a formal report and submit it to the proper officer for consideration by the executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

(b) If a select committee cannot agree on one single final report to the Council or executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or executive with the majority report.

#### **12. Making sure that select reports are considered by the executive**

(a) The agenda for executive meetings shall include an item entitled 'Issues arising from select'. The reports of select committees referred to the executive shall be included at this point in the agenda (unless they have been considered in the context of the executive's deliberations on a substantive item on the agenda) within two months of the select committee completing its report/recommendations.

(b) Where a select committee or sub-committee prepares a report for

consideration by the executive in relation to a matter where the Leader has delegated decision making power to another individual member of the executive, then the select committee will submit a copy of their report to that individual for consideration. At the time of doing so, the select committee shall serve a copy on the proper officer and the Leader. If the member with delegated decision making power does not accept the recommendations of the select committee then he/she must then refer the matter to the next available meeting of the executive for debate before exercising his/her decision making power and responding to the report in writing to the select committee. The executive member to whom the decision making power has been delegated will respond to the select committee within four weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she will attend a future meeting to respond.

(c) Select committees will in any event have access to the executive's forward work programme for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a select committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the executive's consultation process.

(d) The appropriate executive member may attend, as an approved duty, any meeting of a select committee.

**12A Strong Communities Select Committee exercising powers in relation to Crime & Disorder Functions.**

(a) Paragraphs 10, 11 & 12 above do not apply in this situation.

(b) This Committee may review and scrutinise decisions made or other actions taken in connection with the discharge of crime and disorder functions by Responsible Authorities under Sections 5 & 6 of the Crime & Disorder Act 1998. The Committee may make reports or recommendations to full Council or the Cabinet with respect to the discharge of crime and disorder functions, in which case it must provide a copy to each of the Responsible Authorities and those co-operating persons and bodies referred to in the Police & Justice Act 2006.

(c) In addition, the Committee must consider any local crime and disorder matter (as defined by Section 19 of the Police & Justice Act 2006 (included on the agenda for the meeting where the matter has been referred to the Committee by a member of the Council). It must consider whether to make a report or recommendations to full Council and/or the Cabinet with respect to that local crime and disorder matter, having regard to any representations made by the member concerned. If the Committee decides not to make a report or recommendations it must notify the member concerned of its decision and the reasons for it. If the Committee does make a report or recommendations to full Council and/or Cabinet then it must provide a copy of the report or recommendations to the member concerned and such of the Responsible Authorities and co-operating persons or bodies, as it thinks appropriate.

(d) Whenever the Committee provides a copy of the report or recommendations to a Responsible Authority or a co-operating person or

body, it must remind that authority/body of its statutory duty to have regard to the report or recommendations in exercising its functions, to consider the report or recommendations and to respond to the Committee indicating what (if any) actions that person or body proposes to take.

### **13. Rights of select committee members to documents**

(a) In addition to their rights as councillors, members of select committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

(b) Nothing in this paragraph prevents more detailed liaison between the executive and select committee as appropriate depending on the particular matter under consideration.

### **14. Members and officers giving account**

(a) Any select committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any (other) member of the executive, the head of paid service and/or any third tier officer to attend before it to explain in relation to matters within their remit:

- i) any particular decision or series of decisions; and/or
- ii) the extent to which the actions taken implement Council policy; and/or
- iii) their performance.

and it is the duty of those persons to attend if so required.

(b) Where any member or officer is required to attend a select committee under this provision, the chairman of that committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least fifteen clear working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

(c) A select committee or sub committee may request any officer below third tier to attend before it provided that he/she should be accompanied by a senior officer

(d) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the select committee shall in consultation with the member or officer arrange an alternative date for attendance.

### **15. Attendance by others**

A select committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. The relevant executive member will be entitled to attend all select committee meetings.



## 16. Call-in

(a) When a decision is made by the executive, an individual member of the executive or a committee of the executive or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. All members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

(b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless a select committee objects to it and calls it in.

(c) During that period, the proper officer shall call-in a decision for scrutiny by the committee if so requested by the chairman or any three non-executive members and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chairman of the committee, and in any case within fifteen working days of the publication of the decision.

(d) If, having considered the decision, the select committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider, amending the decision or not, before adopting a final decision. If referred to full Council, the Proper Officer will call a meeting of the Council **within 10 working days??**

(e) If following an objection to the decision, the select committee does not meet in the period set out above, or does meet but does not refer the matter to full Council or back to the decision making person or body, the decision shall take effect on the date of the select meeting, or the expiry fifteen working days, from the publication of the decision, whichever is the earlier.

(f) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the executive as a whole or a committee of it, a meeting will be convened to reconsider within ten clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within ten clear working days of the Council request.

(g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## **EXCEPTIONS**

(i) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- i) only decisions involving expenditure or reductions in service over a value of £10,000 may be called in;
- ii) three members of the council are needed for a decision to be called in;

## **CALL-IN AND URGENCY**

(j) The call-in procedure set out above shall not apply where the decision being taken by the executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Head of Paid Service or his/her nominee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

(k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

### **17. The party whip**

The Council views whipping as incompatible with overview and scrutiny. When considering any matter in respect of which a member of a select committee is subject to a party whip the member must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **18. Procedure at select committee meetings**

(a) Select committees and sub-committees shall consider the following business:

- i) minutes of the last meeting;
- ii) declarations of interest (including whipping declarations);
- iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- iv) responses of the executive to reports of the select committee; and
- v) the business otherwise set out on the agenda for the meeting.

(b) Where the select committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to

contribute and speak;

ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and

iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public.

#### **19. Matters within the remit of more than one select committee**

Where a matter for consideration by a select committee also falls within the remit of one or more other select committees, the decision as to which select committee will consider it will be resolved by the Co-ordinating Board. In exceptional circumstances, select committees may meet together.

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# **Financial Procedure Rules**

## **(Financial Standing Orders and Financial Regulations)**

### **1. INTRODUCTION**

- 1.1. These Financial Standing Orders and Financial Regulations form part of the Constitution of Monmouthshire County Council. They were approved by Council at its meeting of 2<sup>nd</sup> May, 2002, and amended on 12<sup>th</sup> January 2006.

### **2. GENERAL**

- 2.1. These Financial Standing Orders and Financial Regulations shall apply to schools and to the activities under the purview of the Property and Contract Services Panel only to the extent that the provisions of this part of Standing Orders are consistent with the statutory provisions and the arrangements made in relation to schools and the said activities.
- 2.2. References in these Regulations to "Chief Officers" are to all the of the Council. References to "the Council" means the Monmouthshire County Council and (where the context so admits) a Committee or Sub-Committee of the Council exercising delegated powers.
- 2.3. Each Chief Officer shall consult the Head of Finance with respect to any matter which is liable materially to affect the Finances of the Council before any provisional or other commitment is incurred or before reporting thereon to a Cabinet or Committee.
- 2.4. The Head of Finance shall be notified of all Government or other circulars, orders, sanctions, regulations, etc. affecting finance. The relevant Chief Officer shall maintain records of any special or specific grants not included within the Directorate budget that are received or receivable.

### **3. FINANCIAL ADMINISTRATION**

- 3.1. The Head of Finance shall, for purposes of section 151 of the Local Government Finance Act, 1972 (as extended by Sections 114-116 of the Local Government Finance Act 1988) be responsible for the administration of the Council's financial affairs.
- 3.2. The Cabinet will be responsible for regulating and controlling the finances of the Council.
- 3.3. As the Council's financial adviser, the Head of Finance shall each year report to the Cabinet with respect to the level of resources proposed to be utilised in each financial year and shall keep Cabinet informed with respect to the Council's finances and financial performance and he shall also keep Select Committees informed of the financial implications of the Council's activities.
- 3.4. Each Chief Officer and Cabinet Member shall be responsible to the Council for the observance of the Council's Financial Standing Orders and Financial Regulations.

- 3.5. Each Chief Officer shall be responsible for the accountability and control of staff, and the security, custody and control of all other resources appertaining to his department.

## **4. FINANCIAL PLANNING**

### ***4.1. Preparation of Annual Estimates***

- 4.1.1. The detailed form of capital and revenue estimates shall be determined by the Head of Finance consistent with the general directions of the Cabinet.
- 4.1.2. Estimates of income and expenditure on revenue account and of receipts and payments on capital account shall be prepared by the Head of Finance in consultation with Chief Officers, and he/she shall collate the estimates for scrutiny by Select Committees and report to the Cabinet, such report to include compliance with the financial plans approved by the Council or the Cabinet and other financial implications.
- 4.1.3. All fees and charges for County Council services are to be reviewed annually and a report produced by the relevant Chief Officer and Cabinet Member, having first consulted with the Head of Finance, for review by the appropriate Select Committee and decision by the Cabinet.
- 4.1.4. The Cabinet shall consider the aggregate effect of these programmes and estimates upon the Council's financial resources and submit them for approval to Council with a recommendation of the council tax to be levied for the ensuing financial year.
- 4.1.5. Each member of the Council shall be provided with a copy of the capital programme and revenue estimates, together with a statement by Head of Finance of their effect on the Council's finances and the council tax to be levied.

### ***4.2. Forward Planning***

- 4.2.1. Chief Officers shall submit a programme for capital expenditure, estimates of the revenue consequences of that expenditure, proposals and estimates regarding levels of revenue spending and income for such future periods, to the Cabinet in such form and by such dates as may from time to time be required.
- 4.2.2. The Cabinet may consider the aggregate of these programmes and estimates upon the Council's financial resources and their effect upon the council taxes to be levied in future years.
- 4.2.3. Forward Planning programmes may be set by the Cabinet in accordance with the budget framework. The Cabinet shall subsequently settle the long term plans for Council services and the distribution between services of available resources to provide a framework within which annual budgets will be prepared.

## 5. BUDGETARY CONTROL

- 5.1. It shall be the duty of each Chief Officer and Cabinet Member to monitor and regulate its financial performance during the currency of each estimate period.
- 5.2 Net expenditure may not be incurred which cannot be met at directorate level from the amount provided in the revenue estimates (including any virement made in accordance with Regulation 5.3 below) where that charge would result in an overspending unless a supplementary estimate had been approved by Cabinet by a report submitted by the relevant Chief Officer in consultation with the Responsible Financial Officer.
- 5.3 FR5.3 That revenue virement be controlled as shown in the table below, as further detailed under Financial Control Procedure 1.

<b>Category</b>	<b>Virement</b>	<b>Authorisation</b>
Cost Centre	Same Directorate/Corporate Area – Same Division	Relevant Head of Service
	Same Directorate/Corporate Area – Different Division	Relevant Chief Officer
	Different Directorate/ Corporate Area – No Reserve Funding Impact	Relevant Chief Officers
	Different Directorate/ Corporate Area – Reserve Funding Impact	Cabinet by recommendation of Chief Officer supported by Responsible Financial Officer
Account Code	Between Indirect Codes	Chief Accountant
	Between Direct Codes	Respective Directorate Accountant – Directorate Budgets Chief Account – Corporate Areas
	Between Indirect and Direct Codes	Head of Finance
Project Codes and other lower level codes	All	Respective Directorate Accountant – Directorate Budgets Team Leader – Central Accountancy – Corporate Areas

5.4 That capital budget virement be controlled as set out below:

<b>Scheme Categories</b>	<b>Virement</b>	<b>Approvals Required</b>
Property Maintenance Infrastructure Maintenance HRA Planned Maintenance GF Renovation Grants	Virement <u>within</u> each category Virement <u>between</u> financial years within each category	Budget holder responsibility up to £50k, relevant Chief Officer over £50k
IT Schemes	Virement within this category and between financial years	Relevant responsible Chief Officer in consultation with Chief Officer RCS and Cabinet Member
Development schemes over £250k Development schemes under £250k CEDs Match funding Reserve funded schemes Education strategic review	Virement <u>within</u> and <u>between</u> these categories and between financial years	Virements affecting more than one portfolio require Cabinet approval.  Virements within a single Member's portfolio require Single member approval
All categories (except specific grant funded schemes)	Virements between categories and between financial years	Virements require Cabinet approval
Specific grant funded Specific SCA funded		Virement not allowed unless granted by the funding body as funding is specific to schemes

5.5 Nothing in these Standing Orders shall prevent a Chief Officer from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or which is referable to Section 138 of the Local Government Act 1972, subject to this action being reported to the Head of Finance and the Cabinet, as soon as practicable.

5.6 The inclusion of items in approved revenue estimates or capital programmes, shall, subject to any Government sanction, constitute authority to incur such expenditure save to the extent which the Cabinet shall have placed reservation on any such item or items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservation has been removed.

5.7 The Head of Finance shall from time to time keep the Cabinet informed as to the state of the Council's finances and shall report on the accounts of each financial year within legislative timescales.

- 5.8 Where a proposal exists to adopt or to recommend to the Cabinet or Council a policy which, if carried out, will involve the Council in expenditure not already specifically approved by the Council, or for which provision has not been made in the usual estimates, it shall first obtain from the Head of Finance and the Chief Officer concerned, an estimate of the cost and then forward to the Cabinet such an estimate of the cost as will enable a report to the Council upon the immediate and prospective financial effects of the proposal and no liability shall be incurred until the Council have considered the said report.

## **6. BUDGET**

- 6.1. Where any sanctions of a Government Department are required to expenditure, such expenditure shall not be incurred before such sanction had been obtained.
- 6.2. Upon the approval by the Council of a programme of capital expenditure the Chief Officer concerned shall be authorised;
- to take steps in conjunction with the Monitoring Officer or his authorised representative to enable land required for the purposes of the programme to be acquired in due time and
  - to prepare a scheme and estimate including associated revenue expenditure for approval under Contract Standing Orders.
- 6.3. Any proposal to Cabinet which would involve the incurring of expenditure during a period in respect of which the Council has approved a budget or a programme of capital expenditure shall be accompanied by a report of the Chief Officer concerned indicating that the financial provision within the budget and/or programme is adequate. If the provision is not adequate a joint report prepared by the Head of Finance and the Chief Officer must be submitted to the Cabinet.
- 6.4. Where it appears that the amount of any head of estimate of approved expenditure may be exceeded, it shall be the duty of the Chief Officer concerned after consulting with the Head of Finance to inform the Cabinet.
- 6.5. The Head of Finance shall furnish each Chief Officer with periodical statements of receipts and payments under each head of approved estimate and such other relevant information as he/she has.

## **7. ACCOUNTING**

- 7.1. The Head of Finance shall be responsible for the whole of the accounting records of the Council and Chief Officers shall obtain the approval of the Head of Finance before introducing any books, forms computer systems or procedure relating to cash, stores or other accounts of the Council and it shall be the duty of the Head of Finance to see that uniform systems shall, as far as practicable, be adopted throughout the Directorates of the Council.
- 7.2. The following principles shall be observed as far as practicable in the allocation of accounting duties;
- the duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be



separated as completely as possible from the duty of collecting or disbursing them;

- officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these functions.

## **8. IMPREST ACCOUNTS AND ADVANCES**

- 8.1. The Head of Finance shall provide such imprest accounts as he considers appropriate for such officers of the Council as may need them to meet petty cash disbursements which shall be supported by receipted vouchers to the extent that the Head of Finance may require.
- 8.2. Petty disbursements shall not include sums due to any tradesmen with whom the County Council normally trade, nor any account for goods exceeding £100 in value, nor travelling and subsistence expenses, unless specifically agreed by the Head of Finance.
- 8.3. Where he/she considers it appropriate, the Head of Finance shall open an account with the Council's bankers or National Giro for use by the imprest holder who shall not cause such an account to be overdrawn. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance on an imprest holder's banking account shall forthwith be reported to the Head of Finance.
- 8.4. No income received on behalf of the Council may be paid into an advance account but must be paid to the Council as provided elsewhere within these Financial Standing Orders and Financial Regulations, unless specifically agreed with the Head of Finance
- 8.5. An officer responsible for an advance or imprest account shall, if so requested, give to the Head of Finance a certificate as to the state of his advance or imprest account.
- 8.6. On leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, an officer shall account to the Head of Finance for the amount advanced to him.

## **9. AUDIT**

- 9.1. A continuous internal audit, under the independent control and direction of the Head of Finance, shall be arranged to carry out an examination of accounting financial and other operations of the Council.
- 9.2. The Head of Finance shall have the responsibility to independently review, appraise and report to the Council upon the financial systems and procedures in operation to ensure that they accord with these Financial Standing Orders and Financial Regulations and accord with good practice, namely:-
  - the soundness, adequacy and application of internal financial control;
  - the safeguarding of assets;
  - that value for money is being obtained; and

- the suitability and reliability of financial and related management information.

9.3. The Head of Finance or his/her representative shall have authority to:

- enter at all reasonable times on any Council premises or land;
- have access to all records, documents, computer programmes and files and correspondence relating to any financial and other transactions of the Council;
- require and receive such explanations as are necessary concerning any matter under such examination; and
- require any employee of the Council to produce cash, stores or any other Council property under his control.

9.4. Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Council, the Chief Officer concerned shall forthwith notify the Head of Finance who shall take such steps as are necessary by way of investigation and report.

## **10. LOCAL GOVERNMENT FINANCE ACT 1988**

10.1. The Head of Finance shall, after consultation with the Monitoring Officer, personally make a report to the External Auditor and each Elected Member if it appears to him/her that a Member, committee, officer or joint committee of which the authority is represented:

- has made or is about to make a decision which involves or would involve the Authority in unlawful expenditure;
- has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Authority;
- is about to enter an item of account the entry of which is unlawful;

10.2. He/she shall also make such a report if it appears to him that the expenditure of the Authority incurred (and proposed to incur) in a financial year is likely to exceed the resources (including borrowings) available to meet that expenditure.

## **11. BANKING ARRANGEMENTS AND CHEQUES**

11.1. All arrangements with the Council's bankers shall be made by or under arrangements approved by the Chief Officer - Regeneration, Environment and Resources, who shall be authorised to operate such banking accounts, including National Giro Accounts, as he may consider necessary.

11.2. All cheques, including National Giro payment forms, but excluding cheques drawn on authorised imprest accounts, shall be ordered only on the authority of the Head of Finance, who shall make proper arrangements for their safe custody.

- 11.3. Cheques on the Council's main banking accounts, including National Giro accounts, shall bear the facsimile signature of or shall be signed by the Head of Finance.
- 11.4. Cheques over £50,000 will bear the manuscript signature of the Head of Finance or Principal Officer – Management Accountancy.

## **12. CONTRACTS FOR BUILDING, CONSTRUCTIONAL OR ENGINEERING WORK**

- 12.1. Where contracts provide for payment to be made by instalments, the Head of Finance shall arrange for the keeping of records to show the state of the account on each contract between the Council and the contractor, together with any other payments and the related professional fees.
- 12.2. Payments to contractors on account of contracts shall be made only on a certificate issued by the appropriate Chief Officer (or private architect, engineer or consultant where engaged by the Council issued through the appropriate Chief Officer) as appropriate or by his deputy or other officer nominated by him, in writing, for the purpose. The certificate will show the value of work executed to date, retention money, amounts paid to date, Value Added or other Tax liability where appropriate, and the amount now certified.
- 12.3. Subject to the provisions of the contract, in each case every extra or variation shall be authorised, in writing, at the time the decision is made by the appropriate Chief Officer (or private architect, engineer or consultant as may be appropriate) or by his deputy or other officer nominated by him in writing for the purpose. The variation order shall record the estimated costs of the variation.
- 12.4. Where by reasons of such extra or variation it is apparent that the tender sum is to be exceeded by 5% (or 10% if the tender sum contains no contingency provision), the officer responsible for the contract shall report to the Head of Finance and to the relevant Cabinet Member. Should further variations cause additions to the tender sum by a further 5%, these also shall be reported to the Head of Finance and to the relevant Cabinet Member.
- 12.5. The final payment for any contract shall not be authorised until the appropriate officer, private architect, engineer or consultant has produced to the Head of Finance a detailed statement of account, and all relevant documents, if required and the Head of Finance has signified agreement to the final payment due.
- 12.6. The Head of Finance shall, to the extent he considers necessary examine final accounts for contracts and he shall be entitled to make all such enquiries and receive such information and explanations as he may require in order to satisfy himself as to the accuracy of the accounts.
- 12.7. Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Monitoring Officer for consideration of the Council's legal liability and, where necessary, to the Head of Finance for financial consideration before a settlement is reached.

- 12.8. Where completion of a contract is delayed, it shall be the duty of the Chief Officer concerned to take appropriate action in respect of any claim for liquidated damages.
- 12.9. A report concerning expected final costs at practical completion shall be made to the appropriate Cabinet Member in respect of all contracts in excess of £100,000.
- 12.10. In any case where the total cost of any additional work carried out under a contract exceeds the approved contract sum by £50,000 or more than 10%, whichever is the greater, a report of such costs shall, after agreement of the Final Account, be submitted to the Cabinet.

### **13. PROPERTY**

- 13.1. The Head of Finance, or an officer nominated by him/her, will maintain a record of all properties owned by the Council (except dwellings provided under the Housing Acts).
- 13.2. Before acquiring or disposing of any building, the appropriate Chief Officer shall consult with the Head of Finance and he/she shall compile a report for the consideration of Cabinet.
- 13.3. The Monitoring Officer shall have the custody of and responsibility for all title deeds of the Council under secure arrangements agreed with the Head of Finance.

### **14. INCOME**

- 14.1. The collection of all money due to the Council shall be under the supervision of the Head of Finance. In no cases should lodgement of cash be less frequent than weekly except by agreement of the Head of Finance.
- 14.2. Each Chief Officer shall furnish the Head of Finance with such particulars in connection with work done, goods supplied or services rendered and of all accounts due as may be required to enable all sums due to the Council, and to ensure the prompt rendering of accounts for the recovery of income due.
- 14.3. All accounts for income due to the Council shall be sent by the Head of Finance except where otherwise agreed.
- 14.4. The Head of Finance shall be notified promptly, in writing, of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council, and shall have the right to inspect any documents or other evidence in this connection as he may decide.
- 14.5. All receipts, forms, books, tickets and cash receipting machines shall be ordered and supplied to Directorates by the Head of Finance except where otherwise agreed by him, and he shall satisfy himself as to arrangements for their control.
- 14.6. All money received by an officer on behalf of the Council shall, without delay, be paid to the Head of Finance or if directed, to the Council's banking or

National Giro account or transmitted directly to any other body or person entitled thereto. No deduction may be made from such money save to the extent that the Head of Finance may specifically authorise. Each officer who banks money shall enter on the paying-slip, a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the cheque, and, as may be directed, the receiving department, office or establishment.

- 14.7. Personal cheques shall not be cashed out of the money held on behalf of the Council other than with the express consent of the Head of Finance.
- 14.8. Every transfer of official money from one member of staff to another will be evidenced in the records of the Directorates concerned, by the signature of the officer receiving the money.
- 14.9. No debit in respect of an amount due to the Council once established shall be discharged otherwise than by payment in full, by approval of the Head of Finance where the debt does not exceed £1,000 or is for any value where the debtor is in liquidation or bankruptcy. Debts of over £1,000 may be written off by the Head of Finance in consultation with the Cabinet Member with responsibility for corporate finance.

## **15. INSURANCES**

- 15.1. The Head of Finance shall effect all insurance cover under the general direction of the Cabinet and shall negotiate all claims in consultation with officers where necessary.
- 15.2. Chief Officers shall give prompt notification to the Head of Finance of all new risks, properties or vehicles which required to be insured and of any alterations affecting existing insurances and shall advise their view of the amount and type of cover required for new risks or alterations.
- 15.3. Chief Officers shall notify the Head of Finance in writing forthwith upon knowing of any loss, liability or damage or any incident, whether or not likely to lead to a claim on a policy of the Council and shall arrange for an estimate of the cost or reinstatement to be obtained and shall inform the police unless otherwise decided after consultation with the Head of Finance.
- 15.4. All appropriate employees of Monmouthshire County Council shall be included in a suitable fidelity guarantee insurance.
- 15.5. The Head of Finance shall annually, or such other period as he/she may consider necessary, review all insurances in consultation with other Chief Officers as appropriate.
- 15.6. Chief Officers shall consult the Deputy Chief Executive Officer and the Head of Finance in respect of the terms of any indemnity or guarantee which the Council is requested to give.

## **16. INVENTORIES**

- 16.1. All Chief Officers shall maintain inventories recording an adequate description of furniture, fittings, equipment, computer hardware and software, plant and machinery having an item value greater than £50 belonging to the Council. The extent of such property shall be so recorded and the form in which the inventories shall be kept shall be determined by each Chief Officer in consultation with the Head of Finance
- 16.2. Each Chief Officer shall be responsible for maintaining an annual check of all items on inventories and for taking action in relation to surpluses or deficiencies and noting the inventory accordingly.
- 16.3. The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Chief Officer of each Directorate.

## **17. INVESTMENTS, BORROWINGS AND TRUST FUNDS**

- 17.1. Council has adopted the Chartered Institute of Public Finance and Accountancy (CIPFA) "Code of Practice for Treasury Management in Local Authorities".
- 17.2. All investments of money under its control shall be made in the name of the Council or in the name of nominees approved by the Cabinet; Bearer Securities shall be excepted from this Standing Order, but any purchase of such securities shall be reported to the Cabinet.
- 17.3. All securities the property of, or in the name of, the Council or its nominees shall be held in the custody of the Council's bankers, or otherwise, as the Council may direct.
- 17.4. All borrowings shall be effected in the name of the Council.
- 17.5. The Head of Finance shall be the Council's registrar of stocks, bonds and bills and shall maintain records of all borrowing of money by the Council.
- 17.6. A Treasury Management Policy Statement shall be produced by the Head of Finance, adopted by the Council or amended as it may think fit and reviewed annually.
- 17.7. All money in the hands of the Council may be aggregated for the purposes of Treasury Management and shall be under the control of the Head of Finance designated for the purposes of Section 151 of the Local Government Act 1972.
- 17.8. At or before the start of the financial year the Head of Finance shall report to the Cabinet or to Council on the strategy for treasury management it is proposed to adopt for the coming financial year.
- 17.9. All executive decisions on borrowing, investment or financing shall be delegated to the Head of Finance, who shall be required to act in accordance with the CIPFA Code of Practice for Treasury Management in Local Authorities.

- 17.10. The Head of Finance shall report to the Cabinet not less than twice in each financial year on the activities of the treasury management operation and on the exercise of treasury management power delegated to him. One such report shall comprise an annual report on treasury management for presentation by 30th September of the succeeding financial year.
- 17.11. All trust funds shall be in the name of the Council unless the Trust Deed otherwise provides.
- 17.12. All officers acting as trustees by virtue of their official position shall deposit all securities etc. relating to the Trust with the Head of Finance, or according to his order, unless the Trust deed otherwise provides.

## **18. ORDERS FOR WORK, GOODS AND SERVICES**

- 18.1. Official orders shall be in a form approved by the Head of Finance and are to be signed only by officers authorised in writing by the appropriate Chief Officer who shall be responsible for official orders issued from his/her Directorate.
- 18.2. Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments such as rent or rates, for petty cash payments or such other exceptions as the Head of Finance may approve.
- 18.3. Verbal orders should be used only in the event of an emergency. In the event of goods being supplied after a verbal order a "confirmation only" order will be sent to the supplier.
- 18.4. Each order shall conform with the directions of the Council with respect to central ordering and purchasing and the standardisation of supplies and materials.
- 18.5. A copy of each order shall, if so required be supplied to the Head of Finance.

## **19. PAYMENTS OF ACCOUNTS**

- 19.1. Apart from petty cash and other payments from advance accounts, the normal method of payment of money due from the Council shall be by cheque or other instrument drawn on the Council's banking account or National Giro account by the Head of Finance. Where appropriate payment may be made electronically under the direction of the Head of Finance.
- 19.2. The Chief Officer issuing an order is responsible for examining, verifying and certifying the related invoice(s) and similarly any other payment vouchers or accounts arising from sources in his Department. Such Certification shall be in manuscript or on behalf of the Chief Officer. The names of officers authorised to sign such records shall be authorised by each Chief Officer in writing and shall be sent to the Head of Finance by each Chief Officer, together with specimen signatures and initials and shall be amended on the occasion of any change therein.
- 19.3 Before certifying an account, the certifying officer shall, save to the extent that the Head of Finance may otherwise determine, have satisfied himself that:-

- the work, goods or services to which the account relates have been received, carried out, examined and approved;
  - the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct and are in accordance with the quotation, contract, agreement or current market rate, whichever is applicable;
  - the relevant expenditure has been properly incurred and is within the relevant estimates provision;
  - appropriate entries have been made in inventories, stores records or stock books as required; and
  - the account has not been previously passed for payment and is a proper liability of the Council.
- 19.4 Duly certified accounts shall be passed without delay to the Head of Finance, or otherwise under arrangements approved and controlled by him/her, who shall determine them to the extent that is considered necessary, for which purpose he shall be entitled to make such enquiries and to receive such information and explanations as may be required.
- 19.5 Any amendment to an account shall be made in ink, and initialed by the officer making it, stating briefly the reasons where they are not self-evident.
- 19.6 Each Chief Officer shall, as soon as possible after 31st March and not later than a date to be notified by the Head of Finance in each year, notify the Head of Finance of all outstanding expenditure relating to the previous financial year. Such expenditure must be on revenue account, for goods or services ordered and received within the year of account.

## **20 PROTECTION OF PRIVATE PROPERTY**

- 20.1 The Chief Officer - Social Care & Health and any other Chief Officer affected shall notify the Head of Finance in such form as he may require, of any case known to him where steps are necessary to prevent or mitigate loss or damage of moveable property of a third party into the possession of the Council or of that officer, and shall forward to the Head of Finance an itemised inventory in each case, prepared in the presence of two officers.
- 20.2 All valuables such as jewellery, watches and other small articles of a similar nature and documents of title belonging to a third party shall (unless in any case otherwise decided by the Head of Finance) be deposited with him for safe custody.

## **21 SALARIES, WAGES AND PENSIONS**

- 21.1 The payment of all salaries, wages, compensation and other emoluments to all employees of the Council shall be made by the Head of Finance or under arrangements approved and controlled by him.
- 21.2 Each Chief Officer shall notify the Head of Finance as soon as possible and in the form prescribed or otherwise under arrangements approved and controlled



by him, of all matters affecting the payment of such emoluments and in particular;-

- appointments, resignations, dismissals, suspension, secondments and transfers;
- absences from duty for sickness or other reasons, apart from approved leave;
- temporary or permanent changes in remuneration, other than normal increments and pay awards and agreements of general application;
- information necessary to maintain records of service for superannuation, income tax, national insurance and the like; and
- amendments or adjustments to temporary or permanent additions or deductions.

21.3 Appointments for all employees shall be made in accordance with Policies of the Council within the approved establishments, grades and rates of pay.

21.4 All time records or other pay documents shall be in a form prescribed or approved by the Head of Finance and shall be certified in manuscript by or on behalf of the Chief Officer. The names of officers authorised to sign such records shall be sent to the Head of Finance by each Chief Officer, together with specimen signatures and shall be amended on the occasion of any change.

## **22 SECURITY**

22.1 Each Chief Officer is responsible for maintaining reasonable security at all times for all buildings, stocks, stores, furniture, equipment, cash etc. under his control. He shall consult the Head of Finance in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

22.2 Maximum limits for cash holdings shall be agreed with the Head of Finance and shall not be exceeded without his permission.

22.3 Each Chief Officer will be responsible for making reasonably secure arrangements in regard to the custody and availability of keys to safes and similar receptacles in his department and the loss of any such keys must be reported to the Head of Finance forthwith.

22.4 No property belonging to the County Council shall be sold or otherwise disposed of without the prior approval of the committee concerned and prior notification to the Head of Finance.

## **23 STOCKS AND STORES**

23.1 Each Chief Officer shall make reasonable arrangements for the secure care and custody of the stocks and stores in his department.

23.2 Stocks shall not be in excess of normal requirements except in special circumstances with the approval of the Committee concerned.

- 23.3 Chief Officers shall arrange for periodical test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked at least once in every year.
- 23.4 The Head of Finance shall be entitled to receive from each Chief Officer such information as required in relation to stores for the accounting, costing and financial records.
- 23.5 Relevant Chief Officers shall be required to certify to the Head of Finance stock quantities and values held within their Directorates as at the end of each financial year by such dates as may be determined by him.
- 23.6 Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction unless the Head of Finance decides otherwise in a particular case. Before disposals are made it should be ascertained whether there is a need for them in another Directorate of the County Council.

## **24 TRAVELLING, SUBSISTENCE AND FINANCIAL LOSS ALLOWANCES**

- 24.1 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted to the Head of Finance duly certified in a form approved by him, made up to the last day of each month, by the fifth day of the following month. The names of officers authorised to sign such claims shall be sent to the Head of Finance by each Chief Officer together with specimen signatures and shall be amended on the occasion of any change.
- 24.2 The certification by or on behalf of the Chief Officer shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
- 24.3 Officers' claims submitted more than four months after the first date to which the claim relates will be forwarded to the Head of Finance for consideration and will only be paid with his express approval.
- 24.4 Payments to members, including co-opted members of the Council or its Committees who are entitled to claim travelling or other allowances, will be made by the Head of Finance on receipt of the prescribed form duly completed. All claims for a financial year are to be submitted by the fifteenth day of April of the next financial year.

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## **Contract Procedure Rules**

### **PREFACE**

A corporate view of procurement issues should be considered in that whole-life costs and establishment of longer-term objectives to secure overall best value should be considered rather than short-term savings.

These Contract Procedure Rules therefore link with the Council's Procurement Strategy and the Council's Buyers' Guide.

The best authorities recognise the critical contribution that procurement makes to the quality of the services delivered to their communities and that it must be seen in the context of the Council's overall objectives.

Contract Procedure Rules are the link between the documented Procurement Strategy, detailed codes of practice, and operational procedures. Therefore, it is envisaged that authorities will ensure that their rules are supported by a detailed Buyers' Guide and standard documents, preferably on their intranets, to steer the systems and procedures that are established at departmental level.

<b>CONTENTS</b>	
<b>A BRIEF GUIDE TO CONTRACT PROCEDURE RULES (CPR's)</b>	<b>5</b>
<b>SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES</b>	<b>7</b>
1. BASIC PRINCIPLES	7
2. OFFICER RESPONSIBILITIES	8
3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS	9
4. RELEVANT CONTRACTS	11
<b>SECTION 2: COMMON REQUIREMENTS</b>	<b>12</b>
5. STEPS PRIOR TO PURCHASE	12
6. RECORDS	13
7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS	14
<b>SECTION 3: CONDUCTING PURCHASE AND DISPOSAL</b>	<b>17</b>
8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS	17
9. PRE-TENDER MARKET RESEARCH AND CONSULTATION	20
10. STANDARDS AND AWARD CRITERIA	21
11. INVITATIONS TO TENDER/QUOTATIONS	22
12. SHORTLISTING	24
13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS	25
14. POST TENDER CLARIFICATION PROCEDURES	26
15. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING SUPPLIERS / PROVIDERS	27
<b>SECTION 4: CONTRACT AND OTHER FORMALITIES</b>	<b>28</b>
16. CONTRACT DOCUMENTS	28
17. BONDS AND PARENT COMPANY GUARANTEES	30
18. PREVENTION OF CORRUPTION	31
19. DECLARATION OF INTERESTS	32
<b>SECTION 5: CONTRACT MANAGEMENT</b>	<b>33</b>
20. MANAGING CONTRACTS	33
21. RISK ASSESSMENT AND CONTINGENCY PLANNING	34
22. CONTRACT MONITORING, EVALUATION AND REVIEW	35
<b>DEFINITIONS APPENDIX</b>	

**FURTHER ADVICE AVAILABLE FROM:**

Strategic Procurement Unit: [procurement@monmouthshire.gov.uk](mailto:procurement@monmouthshire.gov.uk)

Internal Audit: [internalaudit@monmouthshire.gov.uk](mailto:internalaudit@monmouthshire.gov.uk)

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## **A BRIEF GUIDE TO CONTRACT PROCEDURE RULES (CPR's)**

These contract procedure rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability.

Whilst ensuring a safeguard for those officers who have responsibility for spending the public purse, following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

Officers responsible for purchasing or disposal **must** comply with these contract procedure rules. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract. (For example, if CPR's would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations in writing or tender submissions. Equally, it may not always be appropriate to make use of an exemption under Rule 3 (even if one might apply or be granted).

**These rules are mandatory. Failure to comply with these contract procedure rules could lead to disciplinary action.**

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy.

- Follow the rules if you purchase goods or services or order works.
- Take all necessary legal, financial, procurement and professional advice.
- Declare any personal financial interest in a contract and then withdraw. Corruption is a criminal offence.
- Appraise the purchasing need.
- Check with Strategic Procurement Unit whether there is an existing Corporate or Collaborative Contract which you can make use of before undergoing a competitive process.
- For contracts greater than £25K allow at least four weeks for submission of bids, excluding EU tendering exercises which have specific timescales (not to be submitted by fax or e-mail). Please refer to the Buyers' Guide.
- Keep bids confidential.
- Complete a written contract.
- An official order should always be raised using the purchase order process (POP) unless an exemption has been approved by the Chief Finance Officer.
- Identify a contract manager with responsibility for ensuring the contract delivers as intended.

- Keep records of dealings with suppliers.
- For contracts greater than £25K assess each contract afterwards to see how well it met the purchasing need and Value for Money requirements.

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## SECTION 1:

### SCOPE OF CONTRACT PROCEDURE RULES

#### 1.1 BASIC PRINCIPLES

1.11 All purchasing and disposal procedures **must:**

- demonstrate Value for Money for public money spent
- be consistent with the highest standards of integrity
- ensure fairness in allocating public contracts
- comply with all legal requirements
- ensure that non-commercial considerations do not influence any contracting decision
- support the Council's corporate and departmental aims and policies
- comply with the principles of the Council's Corporate Procurement Strategy
- be planned with adequate timescales (e.g. officers need to be aware of extended timescales where EU procurement rules apply).
- be advertised through Buy for Wales and/or recognised advertising portals e.g. Constructionline

[Please refer to the Strategic Procurement Unit for advice]

1.12 Consideration must be given to applying the most economically advantageous tender (MEAT) criteria when awarding contracts. The lowest price may not always be the only criteria for awarding the contract; other criteria could be quality, ability to undertake the work in a given timescale, references, [for further examples refer to the Strategic Procurement Unit] **and this must be predetermined prior to advertising the tender or inviting quotes.**

1.13 Where contract values are likely to be just below these contract procedure rules thresholds [CPR 8] officers should apply the conditions of the higher threshold. [Often an officer's estimate determines which threshold applies and quotes may come in well above that figure.] The **total value** of the contract must be considered.

1.14 Officers need to consider the procurement of goods, services and works well in advance and be aware of specific timescales to meet deadlines, in particular where EU procurement rules apply.

1.15 The volume, frequency and standardisation of the goods or services required should also be considered; better value may be obtained if a longer term



contract is applied rather than a number of individual purchases of the same item.

## **1.2 In-house Providers**

1.2.1 In accordance with these Contract Procedure Rules, in house service providers must be used. Where an in-house service provider has declined the opportunity to provide goods, works, or services, any subsequent procurement from an external supplier/provider must comply with these Contract Procedure Rules.

1.2.2 Subject to the requirements of the Local Government Planning and Land Act 1980, the Local Government Acts 1988 and 1999 and all subsequent amendments, all official tenders (where an in-house service provider is tendering) with the exception of those items tendered on the basis of a schedule of rates, should be returned to, and opened by, the Monitoring Officer or an officer nominated by him. Where such tenders exceed EU thresholds they should be returned to, and opened by, the Monitoring Officer or an officer nominated by him in consultation with the appropriate Cabinet Member.

1.2.3 Where the in-house service provider has declined the provision of the goods, works or services, Officers must comply with the principles of these Contract Procedure Rules and demonstrate value for money.

1.2.4. For the avoidance of doubt, the following in-house service providers are included

- Building Hygiene and Cleaning Services
- Energy Management Services
- ICT Support
- Landscape and Grounds Maintenance Services
- Property Services including New Build, Refurbishments, and Maintenance
- Refuse Collection and Waste Management Services
- Legal Services
- Procurement Services
- Health & Safety Support
- School Meals and Catering
- Photocopying
- Corporate Training

Nothing in these Contract Procedure Rules shall prevent in-house service providers from employing sub-contractors to undertake relevant contracts awarded to them provided that this shall only apply when permanent or temporary staff are not available or it is otherwise more economically effective to do so.

## **2. OFFICER RESPONSIBILITIES**

### **2.1 Officers**

2.1.1 Officers responsible for purchasing or disposal must comply with these Contract Procedure Rules, Financial Regulations, the Employee Code of Conduct and with all UK and European Union legal requirements. Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

2.1.2 Officers must:

- have regard to the guidance in the Buyers' Guide
- check whether a suitable *contract* (corporate or collaborative) exists before seeking to let another contract; where a suitable *contract* (corporate or collaborative) exists, this must be used unless there is a valid reason not to [Please refer to the Strategic Procurement Unit for advice]
- keep the records required by Rule 6
- take all necessary legal, financial and procurement advice

2.1.3 When any employee either of the Council or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal & Strategic Procurement Unit advice before proceeding with inviting Tenders or quotations.

### **2.2 Chief Officers**

2.2.1 Chief Officers must:

- ensure that their staff comply with Rule 2.1
- keep registers of:
  - contracts completed by signature, rather than by the Council's seal (see Rule 16.3) and arrange their safekeeping on Council premises for the duration of the contract plus six years.
  - exemptions recorded under Rule 3.2.

## **3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS**

3.1 In exceptional circumstances, a Chief Officer may waive any requirements within these Contract Procedure Rules, provided that, the contract is not likely to exceed £25K. Where the value is likely to exceed £25K the Chief Finance

Officer and the relevant Cabinet member will need to approve the waiver. A waiver is different from an exemption, please refer to the buyers guide for this distinction.

- 3.2 Subject to 3.3 and 3.4 below where EU thresholds apply no exemption can be granted.
- 3.3 Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, the Officer and the Chief Officer may jointly approve the exemption but they must prepare a report for the relevant Cabinet Member [Portfolio Holder] to support the action taken.
- 3.4 Other exemptions include:
- Specialist provider
  - Auctions / works of art / artists
  - In house service providers see CPR 1.2
  - 1<sup>st</sup> extension of existing contract, providing that there is a provision to extend in the existing contract
  - Collaboration / Partnership e.g. an existing contract
- 3.5 All exemptions, and the reasons for them, must be recorded by requesting a proforma from internal audit. Exemptions can be approved as follows:
- >£5k, < £25k Head of Service (eg only one supplier)
  - >£25k, < £75k Chief Officer
  - >£75k.< EU thresholds Chief Finance Officer and relevant Cabinet Member
- 3.6 All exemptions must be reported to the Chief Internal Auditor. The Audit and Accounts Select Committee will monitor the use of all exemptions; exemptions will be reported 6 monthly to the Audit and Accounts Select Committee.
- 3.7 In order to secure Value for Money, the Council may enter into collaborative procurement arrangements. The Officer must consult the Chief Finance Officer and the Strategic Procurement Unit where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium. [The Strategic Procurement Unit holds an updated register of all available collaborative contracts]
- 3.8 All purchases made via a local authority purchasing and distribution consortium are deemed to comply with these contract procedure rules and no exemption is required. However, purchases above the relevant EU Threshold must be let under the EU Procedure, unless the consortium has satisfied this requirement already by letting their contract in accordance with the EU Procedures on behalf of the Council and other consortium members.

- 3.9 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the lead organisation, will be deemed to comply with these contract procedure rules and no exemption is required (e.g. Welsh Purchasing Consortium, Value Wales). However, advice must be sought from the Strategic Procurement Unit before such contracts are let. Where Monmouthshire County Council is the lead authority then these contract procedure rules will apply.
- 3.10 The use of e-procurement technology does not negate the requirement to comply with all elements of these contract procurement rules, particularly those relating to competition and Value for Money.

#### **4. RELEVANT CONTRACTS**

4.1 All relevant contracts must comply with these contract procedure rules. A relevant contract is any arrangement made by, or on behalf of, the Council (including schools) for the carrying out of works or the supply of goods, materials or services. These include arrangement for:

- The supply or disposal of goods
- The hire, rental or lease of goods or equipment
- The delivery of services, including (but not limited to) those related to:
  - the recruitment of agency staff
  - property transactions
  - financial and consultancy services
  - the commissioning of building/engineering works
  - EU categories Part A, and Part B Goods and Services please refer to the buyers guide for information

4.2 Relevant Contracts do not include:

- Contracts of employment which make an individual a direct employee of the Council, or
- Agreements regarding the acquisition, disposal, or transfer of land (for which Financial Regulations shall apply).

## **SECTION 2:**

### **COMMON REQUIREMENTS**

#### **5. STEPS PRIOR TO PURCHASE**

5.1 The Officer must appraise the purchase, in a manner commensurate with its complexity and value, and taking into account any guidance in the Buyers' Guide by:

- Taking into account the requirements from any relevant service review.
- Appraising the need for the expenditure, its priority and availability of budget.
- Ensure that officers are aware of the additional costs of over specifying their needs.
- Defining the objectives of the purchase assessing the risks associated with the purchase and how to manage them.
- Consider whether the procurement is ethical ( Refer to the Buyers' Guide )
- Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, and collaborate procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
- Consider whether the procurement is socially, economically and environmentally sustainable for all purchases over £25K. Please refer to the Buyers' Guide.
- Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring
- Drafting the terms and conditions that are to apply to the proposed contracts which must accompany all purchases that exceed £25K.

and by confirming that:

There is an approved budget for the proposed the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the Constitution ([LINK](#) )

#### **6. RECORDS**

6.1 Where the Total Value exceeds £5K but is less than £25K the following

records must be kept:

- invitations to quote and quotations (proforma available within the Buyers' Guide)
- a record:
  - of any exemptions and the reasons for them
  - of the reason if the lowest price is not accepted
- written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced.

6.2 Where the Total Value exceeds £25K the Officer must record:

- The method for obtaining bids (see rule 8.1)
- Any contracting decision and the reasons for it
- Any exemption under Rule 3 together with the reasons for it
- The award criteria in descending order of importance
- Tender documents sent to and received from suppliers/providers
- Pre-tender market research
- Post-tender clarification (where permitted) (to include minutes of meetings and outcomes)
- The contract documents
- Post-contract evaluation and monitoring
- Communications with suppliers/providers and with the successful contractor throughout the period of the contract.

6.3 Records required by this rule must be kept for six years after the end of the contract. However, written documents which relate to unsuccessful tenderers may be microfilmed or electronically scanned or stored by some other suitable method after 12 months from award of contract, provided there is no dispute about the award.

6.4 For EU grants the relevant terms and conditions must be adhered to.

## **7. ADVERTISING, APPROVED LISTS AND FRAMEWORK**

## **AGREEMENTS**

### **7.1 Identifying and Assessing Potential Suppliers / providers**

7.1.1 Officers shall ensure that, where proposed contracts, irrespective of their Total Value, might be of interest to potential suppliers/providers located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

- Buy4Wales ([www.buy4wales.co.uk](http://www.buy4wales.co.uk)), and;
- The Council's website
- Portal websites specifically created for contract advertisements (eg Construction Line /Construction Health And Safety)
- National official journals
- The Official Journal of the European Union (OJEU)/Tenders Electronic Daily (TED) (even if there is no requirement with the EU Procedure) and

(please refer to the Strategic Procurement Unit for advice)

7.1.2 Officers are responsible for ensuring that all suppliers / providers for a relevant contract are suitably assessed. The assessment process shall establish that the potential suppliers / providers have sound:

- Economic and financial standing
- Technical ability and capacity to fulfil the requirements of the Council

7.1.3 This shall be achieved in respect of proposed contracts that are expected to exceed £25k by selecting firms from:

- Approved lists of providers, maintained by the Council or on its behalf, and compiled following responses to a public advertisement, (e.g. Constructionline) or
- Shortlists assessed from expressions of interest in a particular contract submitted in response to a public advertisement.
- Public advertisements issued in respect of Rule 7.1.1 above shall reflect the potential degree of interest from suppliers / providers located within other member states of the EU

### **7.2 Approved Lists (contact the Strategic Procurement Unit)**

7.2.1 Approved Lists should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and

cannot easily be aggregated and priced in a single tendering exercise. Approved Lists cannot be used where the EU Procedure applies.

- 7.2.2 Officers may only compile approved lists in consultation with Strategic Procurement Unit.
- 7.2.3 No person may be entered on an Approved List until there has been an adequate investigation into both their financial and their technical ability to perform the contract, unless such matters will be investigated each time bids are invited from that list.
- 7.2.4 Approved Lists must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure the widest publicity among relevant suppliers throughout all member states of the EU. Persons may be entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 7.2.3 are met.
- 7.2.5 The list and Shortlisting criteria must be reviewed at least annually and re-advertised at least every three years. On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to reapply. Review means:
- The reassessment of the financial and technical ability and performance of those suppliers/providers on the list.
  - The deletion of those suppliers/providers no longer qualified, with a written record kept justifying the deletion. Head of Service must approve any deletions from the approved list.
- 7.2.6 All approved lists shall be maintained in an open, fair and transparent manner and be open to public inspection.
- 7.2.7 A register of pre-qualified contractors and Consultants maintained by or on behalf of central government (eg Constructionline) will be deemed to be an Approved List for the purpose of these contract procedure rules and shall not be subject to the requirements of Rules 7.2.2. to 7.2.6 inclusive.

### **7.3 Framework Agreements**

- 7.3.1 The term of a Framework Agreement must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.
- 7.3.2 Contracts based on Framework Agreements may be awarded by either:
- Applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
  - Where the terms laid down in the Framework Agreement are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:



- inviting the organisations within with the Framework Agreement that are capable of executing the subject of the contract to submit written offers.
- Fixing a time limit which is sufficiently long enough to allow offers for each specific contract to be submitted by nominated providers within the framework agreement, taking into account factors such as the complexity of the subject of the contract.
- Awarding each contract to the provider who has submitted the best offer on the basis of the Award Criteria set out in the specifications of the original Framework Agreement, and tailored criteria set out in the mini competition.

(Please refer to the Strategic Procurement Unit for advice)

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## SECTION 3:

### CONDUCTING PURCHASE AND DISPOSAL

#### 8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS.

- 8.1 The Officer must calculate the Total Value of the contract.
- 8.2 The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt Officers must seek the advice of the Chief Finance Officer/Strategic Procurement Unit.

#### 8.3 Purchasing – Competition Requirements

- 8.3.1 Where the Total Value for a purchase is within the values in the first column below, the Award Procedure in the second column must be followed. Shortlisting shall be done by the persons specified in the third column.

Total Value	Award Procedure	Shortlisting	Minimum number of bids invited
Up to £1K	Demonstrate that good value has been achieved	Officer	No requirement
£1K - £5K	One written quotation	Officer	Demonstrate value for money
£5K - £25K	Three written quotations. Value for money needs to be demonstrated, Advertisement through relevant trade journal/portal and/or buy4wales	Officer and Line Manager	Three
£25,001 – EU Threshold *  Goods & Services and works <£1m	Invitation to Tender by advertisement, through relevant trade journal/portal and/or buy4wales	Officer, Line Manager	Three
£25,001 – EU Threshold *  >£1m works only	Invitation to Tender by advertisement, through relevant trade journal/portal and/or buy4wales	Officer, Line Manager and Head of Service (or delegated officer)	Three
Above EU Threshold	EU Procedure or, where this does not apply. Seek legal and/or procurement advice	Consult the Strategic Procurement Unit Unit – see	Consult the Strategic Procurement Unit Unit –

		rule 8.1.4	see rule 8.1.4
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\* see Buyers' Guide

**Strategic Procurement Unit to be made aware of all contracts over £25K**

8.3.2 Where it can be demonstrated that there are insufficient suitable qualified suppliers/providers to meet the competition requirement, all suitably qualified suppliers must be invited.

8.3.3 An officer must not enter into separate contracts nor select a method of calculating the Total Value in order to minimise the application of these contract procedure rules. Total contract is the life of the contract not broken down per financial year. Contracts must not be disaggregated. (Contact Strategic Procurement Unit)

8.3.4 When the EU procedure is required, the officer shall consult the Strategic Procurement Unit to determine the method of conducting the purchase.

**8.4 Assets for Disposal Excluding Land**

8.4.1 Assets for disposal must be sent to public auction except where better Value for Money is likely to be obtained by inviting Quotations and Tenders. (These may be invited by advertising on the Council's intranet site). In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed as indicated below -

>£100, <£5K Head of Service

>£5K Chief Finance Officer

Buy4wales is the portal where suppliers sell the goods and services, not where we can dispose of assets.

**8.5 Collaborative and Partnership Arrangements**

8.5.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these contract procedure rules. If in doubt, officers must seek the advice of the Strategic Procurement Unit and Head of Legal Services.

**8.6 The Appointment of Consultants to Provide Services**

8.6.1 Consultant architects, engineers, surveyors and other professional consultants shall be selected and commissions awarded in accordance with the procedures detailed within these contract procedure rules and as outlined below.

Total Value	Award Procedure	Shortlisting	No of bids invited
Up to £5K	One oral quotation (confirmed in writing where the Total Value	Officer	Demonstrate value for

	exceeds £1K)		money
£5K - £25K	Three written quotations. Value for money needs to be demonstrated, Advertisement through relevant trade journal/portal and/or buy4wales as appropriate	Officer and Line Manager	Three
£25,001-£100K	Three written quotations Advertisement through relevant trade journal and/or buy4wales as appropriate	Officer and Line Manager	Three
£100,001-EU Threshold	Invitation to Tender by advertisement/ shortlist to at least three and no more than six suppliers / providers	Officer, Line manager and Chief Finance Officer	Three
Above EU Threshold	EU Procedure or, where this does not apply, Invitation to Tender by advertisement/ shortlist to at least four and no more than six candidates	Consult the Head of Legal Services – see rule 8.1.4	Consult the Head of Legal Services – see rule 8.1.4

- 8.6.2 Consultants shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.
- 8.6.3 Records of consultancy appointments shall be maintained in accordance with Rule 6.
- 8.6.4 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant Head of Service for the periods specified in the respective agreement.

## 9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

9.1 The Officer responsible for the purchase:

- May consult potential suppliers prior to the issue of the Invitation to

Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential candidate, but

- Must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them (except during an EU competitive dialogue process) and must not prejudice the equal treatment of all potential suppliers / providers or distort competition, and should seek advice from the Strategic Procurement Unit.

## **10. STANDARDS AND AWARD CRITERIA**

- 10.1 The Officer must ascertain what are the relevant British, European or international standards which apply to the subject matter of the contract. The Officer must include those standards (or their European equivalent) which are necessary to properly describe the required quality. The Strategic Procurement Unit must be consulted if it is proposed to use standards other than European standards.
- 10.2 The Officer must pre-define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the Council. Consideration [in the first instance] must be given to applying the Most Economically Advantageous Tender (MEAT) when setting award criteria

The basic criteria shall be:

- Highest price if payment is to be received, or
- >£5k 'most economically advantageous tender' (MEAT) where considerations other than price also apply (>£5k represents total aggregated contract value)
- If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters. Sustainability and equality must be one of the selected criteria when adopting (MEAT) to award contracts.

(Refer to Strategic Procurement Unit for advice).

## 11. INVITATIONS TO TENDER/QUOTATIONS

11.1 The invitation to tender shall state that no tender will be considered unless it is received by the date and time stipulated in the invitation to tender. No tender delivered in contravention of this clause shall be considered.

11.2 All invitations to tender shall include the following:

- (a) A specification that describes the Council's fit for purpose requirements.
- (b) A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- (c) A requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.
- (d) Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
- (e) A description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria in measurable terms and if possible in descending order of importance.
- (f) Notification that no tender will be considered unless it is enclosed in a sealed envelope or container which bears the word 'Tender' followed by the subject to which it relates, but no other name or mark indicating the sender. (tender label template within Buyers' Guide).
- (g) A stipulation that any tenders submitted by fax or other electronic means shall not be considered, unless an approved electronic tendering process has been agreed up front by the Strategic Procurement Unit, and communicated in the tender advertisement.
- (h) The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.

Dispute Resolution Clause – clause which stipulates how disputes will be resolved. (Refer to Strategic Procurement Unit for advice)

Terms of payment – when and how payment is to be made.

Delivery – When, where and how delivery is to be made.

Acceptance – Awarded contracts are a mere intent to engage, acceptance will take place by way of official transaction i.e. MCC purchase order, the purchase order must make reference to the awarded contract. This procedure must be expressed in all contract

terms and conditions. Contact Strategic Procurement Unit for advice.

Law – Need to identify the law under which the contract will be governed ie. English Law.

- 11.3 All invitations to tender or quotations must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see rule 16).
- 11.4 The Invitation to Tender or Quotation must state that the Council is not bound to accept any Quotation or Tender.
- 11.5 All suppliers / providers invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.
- 11.6 All awarded tenders need to be followed by a purchase order to confirm commitment to the contract.

## **12. SHORTLISTING**

- 12.1 Any shortlisting must have regard to the financial, technical and sustainability standards relevant to the contract and the Award Criteria. Special rules apply in respect of the EU Procedure. Contact Strategic Procurement Unit for advice.
- 12.2 The officers responsible for shortlisting are specified in rule 8.1.1.

## **13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS**

- 13.1 Suppliers / providers must be given an adequate period in which to prepare and submit a proper quotation or tender consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of tenders. The EU Procedure lays down specific time periods (see guidance in the Buyers' Guide or contact the Strategic Procurement Unit).
- 13.2 All tenders must be returned to the Monitoring Officer.
- 13.3 Tenders received by fax or other electronic means (eg e-mail) must be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Chief Finance Officer and Strategic Procurement Unit.
- 13.4 The Monitoring Officer shall be responsible for the safekeeping of tenders until the appointed time of opening. Each tender must be:
  - Suitably recorded so as to subsequently verify the date and precise time it was received
  - Adequately protected immediately on receipt to guard against

amendment of its contents.

- Recorded immediately on receipt in the tender record log.
- 13.5 The Monitoring Officer must ensure that all tenders are opened at the same time when the period for their submission has ended. Tenders must be opened in the presence of two officers representing the Monitoring Officer or an officer nominated by him/her. Should the process of accepting tenders be compromised please contact Head of Legal Services. The relevant Cabinet Member should be present for all tenders opened above EU thresholds.
- 13.6 Upon opening, a summary of the main terms of each tender (ie significant issues that are unique to each tender submission and were not stated in the tender invitation documents such as tender sum, construction period etc) must be recorded in the tender record log. The summary must be initialled by or on behalf of the Monitoring Officer.

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## **14. POST TENDER CLARIFICATION PROCEDURES**

**(With the exception of the EU competitive dialogue)**

- 14.1 Providing clarification of an invitation to tender to potential or actual suppliers / providers or seeking clarification of a tender, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (ie post-tender clarifications) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price.
- 14.2 If post-tender clarifications are necessary after a single-stage tender or after the second stage of a two stage tender, then such clarifications shall only be undertaken with the tenderer who is identified as having submitted the best tender and after all unsuccessful suppliers / providers have been informed. During clarifications tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope of quantity included in the tender documents. Officers appointed by the Chief Officer to carry out post-tender clarifications should ensure that there are recorded minutes of all clarification meetings and that both parties agree actions in writing.
- 14.3 Post tender clarification must only be conducted in association with the Strategic Procurement Unit. Clarifications must be conducted by a team of at least two officers, one of whom must be from the Strategic Procurement Unit.
- 14.4 Where post tender clarification results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

## **15. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING SUPPLIERS / PROVIDERS**

- 15.1 Apart from the debriefing required or permitted by these contract procedure rules, the confidentiality of quotations, tenders and the identity of suppliers / providers must be preserved at all times and information about one candidate's response must not be given to another candidate.
- 15.2 Contracts must be evaluated and awarded in accordance with the award criteria as set out in the initial tender documentation. During this process, officers shall ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 15.3 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.

- 15.4 Officers may accept quotations and tenders received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these contract procedure rules.
- 15.5 For all above EU threshold contracts, officers must ensure that a period of at least 10 days is given for unsuccessful suppliers/providers to potentially challenge the decision, before the contract can be awarded. If the decision is challenged, officers shall not award the contract and shall immediately seek advice from the Head of Legal Services and the Strategic Procurement Unit.
- 15.6 For all contracts over £25K, all unsuccessful suppliers/providers may request and be given the opportunity of a debriefing. Such practice should include the name of the successful supplier/provider, but not the contract price. Where three or more bids have been received the range of evaluated scores should be disclosed.
- 15.7 A Contract Award Notice must be sent to OJEU for all contracts that are subject to the provisions of the Public Procurement Directives, as well as those contracts for the provision of Part B services where the value exceeds the OJEU threshold. The Contract Award Notice shall be sent to OJEU no later than 48 days after the award or conclusion of the contract.
- 15.8 No information, other than the following, should be given without taking the advice of the Head of Legal Services, and the Strategic Procurement Unit.
- How the award criteria were applied
  - The result of the criteria application
  - The names of suppliers / providers where there were three or more suppliers / providers
- 15.9 If a candidate requests in writing the reasons for a contracting decision, the officer must give the reasons in writing within 15 days of the request. If requested, the officer may also give the debriefing information at rule 15.6 above to suppliers / providers who were deselected in a pre-tender shortlisting process.
- 15.10 The officer with responsibility for awarding the contract above the EU threshold should then inform Strategic Procurement Unit of the a) contract title b) duration c) total contract value d) nationality of successful tender and e) identify which tendering procedure was used ie open, restricted, competitive dialogue or negotiated.

## **SECTION 4:**

### **CONTRACT AND OTHER FORMALITIES**

#### **16. CONTRACT DOCUMENTS**

##### **16.1 Contracts**

16.1.1 All contracts that exceed £25K shall be in writing. (Contact Strategic Procurement Unit for notification of the contract).

16.1.2 All relevant purchases, irrespective of value, [as a minimum] shall clearly specify:

- What is to be supplied (ie the works, materials, services)
- Quality and quantity of works, materials, services to be supplied
- The provisions for payment (ie the price to be paid and when)
- The time, or times, within which the contract is to be performed
- The provisions for the Council to terminate the contract.

The Council's Terms and Conditions issued must be used wherever possible (or made reference to on the Council's official order form).

In addition, every relevant contract of purchase over £25K must also state clearly as a minimum:

- That the contractor may not assign or sub-contract without prior written consent
- Any insurance requirements
- Health and safety requirements
- Dispute Resolution / Ombudsman requirements
- Data protection requirements, if relevant
- That charter standards are to be met if relevant
- Race relations requirements
- Environmental and Ethical Policy
- Disability Discrimination Act requirements
- Freedom of Information Act requirements
- Where agents are used to let contracts, that agents must comply with

the Council's contract procedure rules

- A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.

## 16.2 Contract Formalities

16.2.1 Agreements shall be completed as follows:

Total Value	Method of Completion	By
Up to £25K	Signature/authorisation	Line manager (see rule 16.2.3)
£25,001 to £75K	Signature/authorisation	Supervising officer (see rule 16.2.3)
Above £75K	Sealing	See rule 16.3

16.2.2 All contracts must be concluded formally in writing, and sealed where appropriate. A completed official purchase order must be provided before the supply, service or construction begins, indicating a reference to the awarded contract, except in exceptional circumstances, and then only with the written consent of the Monitoring Officer or Head of Legal Services. An award letter is insufficient.

16.2.3 The officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

## 16.3 Sealing

16.3.1 A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end
- The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services.
- There is any doubt about the authority of the person signing for the other contracting party, or
- The total value exceeds £75K

16.3.2 Where contracts are completed by each side adding their formal seal, the Council's seal will be witnessed by a Member and the Head of Legal Services or some other person authorised by him or her.

16.3.3 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the authority of the Cabinet, a Committee, a Portfolio Holder or a Assistant Chief Executive(Corporate Governance) acting under delegated powers.

16.3.4 It is recognised that the sealing of a contract may prolong commencement and execution of supply, service, or works and therefore recommend that this procedure is planned in the procurement timetable. If however sealing prior to supply, service and works proves impractical, the official purchase order [making reference to the contract] will suffice until the procedure has been completed.

## **17. BONDS AND PARENT COMPANY GUARANTEES**

17.1 The officer must consult the Chief Finance Officer about whether a parent company guarantee is necessary when a candidate is a subsidiary of a parent company and:

- The total contract value exceeds £250,000 or
- Award is based on evaluation of the parent company or
- There is some concern about the stability of the candidate

17.2 The officer must consult the Chief Finance Officer about whether a bond is needed:

- Where the total contract value exceeds £1,000,000 or
- Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the candidate.

## **18. PREVENTION OF CORRUPTION**

18.1 The officer must comply with the Council's code of conduct for employees and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to investigation under the council's disciplinary procedures and possible dismissal and is a crime under the statutes referred to in Rule 18.2 below.

18.2 The following clause must be included in every written Council contract:

The Council may terminate this contract and recover all its loss if the contractor, its employees or anyone acting on the contractor's behalf do any of the following things:

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract or
- (b) commit an offence under the Prevention of Corruption Acts 1889 or 1916 or section 117 (2) of the Local Government Act 1972 or
- (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or

employees.

Any clause limiting the contractor's liability shall not apply to this clause.

## **19. DECLARATION OF INTERESTS**

- 19.1 If it comes to the knowledge of a member or an employee of the Council that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Chief Executive and immediately withdraw from any involvement with that contract process. The Chief Executive shall report such declarations to the appropriate committee.
- 19.2 Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a contract to which the member or employee is directly a party.
- 19.3 A shareholding in a body not exceeding a total nominal value of £1K or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of these Contract Procedure Rules.
- 19.4 The Chief Executive shall maintain a record of all declarations of interest notified by members and officers.

## **SECTION 5:**

### **CONTRACT MANAGEMENT**

#### **20. MANAGING CONTRACTS**

- 20.1 Heads of service in sponsoring departments are to name contract managers for all new contracts. All contracts must have a named Council contract manager for the entirety of the contract.
- 20.2 Contract managers must follow these Contract Procedure Rules and the Council's Buyers' Guide.

#### **21. RISK ASSESSMENT AND CONTINGENCY PLANNING**

- 21.1 A procurement risk/sourcing assessment must be prepared for all procurements with a potential value over the EU Threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the risk/sourcing assessment.

#### **22. CONTRACT MONITORING, EVALUATION AND REVIEW**

- 22.1 All contracts which have a value higher than the EU Threshold limits, or which are high risk, are to be subject to monthly formal review with the contractor. The review may be conducted quarterly if permitted by the Head of Service.
- 22.2 For all contracts with a value higher than the EU Threshold limits, or which are high risk, an annual report must be submitted to the Head of Service.
- 22.3 During the life of the contract, the officer must monitor in respect of
- Performance and relevant key performance indicators
  - Compliance with specification and contract
  - Cost
  - Any value for money requirements
  - User satisfaction and risk management
- 22.4 A summary report should be submitted to the relevant Cabinet Member for contracts awarded over £1m on an annual basis based on the assessment that the purchasing need and the contract objectives (as determined in accordance with Rule 5.2) were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to reletting of the subsequent contract.

## DEFINITIONS

### APPENDIX

<b>Agent</b>	A person or organisation acting on behalf of the Council or on behalf of another organisation
<b>Approved List</b>	A list drawn up in accordance with Rule 7.2
<b>Award Criteria</b>	The criteria by which the successful quotation or tender is to be selected (see further rules 10 and 11.2e)
<b>Award Procedure</b>	The procedure for awarding a contract as specified in Rules 8,10 and 15
<b>Best Value</b>	The duty, which Part 1 of the Local Government Act 1999 places on local authorities to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by Value for Money.
<b>Bond</b>	An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.
<b>Cabinet</b>	The Council's Cabinet as defined in the constitution.
<b>Chief Finance Officer</b>	The Director of Finance, Chief Officer RER or such other officer as may be designated Chief Finance Officer by the Council
<b>Chief Officer</b>	The officers defined as such in the constitution
<b>Code of Conduct</b>	For employees: The code regulating conduct of officers incorporated in all contracts of employment and the Council's Constitution For members: the code of conduct for the time being adopted by the Council under s51 Local Government Act 2000
<b>Committee</b>	A committee which has power to make decisions for the Council, for example a joint committee with another local authority, but not an overview and scrutiny committee.
<b>Constitution</b>	The constitutional document approved by the Council



	<p>which:</p> <ul style="list-style-type: none"> <li>• Allocates powers and responsibility within the Council and between it and others</li> <li>• Delegates authority to act to the Cabinet, committees, portfolio holders and officers</li> <li>• Regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</li> </ul>
<b>Consultant</b>	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.

<b>Contracting Decision</b>	<p>Any of the following decisions:</p> <ul style="list-style-type: none"> <li>• Composition of approved lists</li> <li>• Withdrawal of invitation to tender</li> <li>• Whom to invite to submit a quotation or tender</li> <li>• Shortlisting</li> <li>• Award of contract</li> <li>• Any decisions to terminate a contract</li> </ul>
<b>Corporate Contract</b>	A contract let or endorsed by the Strategic Procurement Unit to support the Council's aim of achieving Value for Money
<b>CPR's</b>	Contract Procedure Rules
<b>Monitoring Officer</b>	As defined in the constitution
<b>EU Procedure</b>	The procedure required by the EU where the total value exceeds the EU Threshold
<b>EU Threshold</b>	The contract value at which the EU public procurement directives apply
<b>Financial Regulations</b>	The financial regulations outlining officer responsibilities for financial matters issued by the Chief Finance Officer in accordance with the constitution.
<b>Framework Agreement</b>	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

<b>Government Procurement Agreement</b>	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European economic area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
<b>Head of Legal Services</b>	As identified in the constitution
<b>High Risk</b>	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
<b>High Value</b>	A high value purchase is where the value exceeds the EU Threshold values
<b>Invitation to tender</b>	Invitations to tender documents in the form required by these contract procedure rules
<b>Key Decision</b>	Decisions that are defined as key decisions in the constitution
<b>Line Manager</b>	The officer's immediate superior or the officer designated by the Chief Officer to exercise the role reserved to the line manager by these contract procedure rules
<b>Nominates Suppliers and Sub-Contractors</b>	Those persons specified in a main contract for the discharge of any part of that contract.

<b>Non-commercial considerations</b>	<ul style="list-style-type: none"> <li>(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ("workforce matters")</li> <li>(b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self employed persons of their services only.</li> <li>(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.</li> <li>(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons (industrial disputes).</li> <li>(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.</li> <li>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or</li> </ul>
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	<p>employees</p> <p>(g) Financial support or lack of financial support by contractors for any institution to or from which the Council gives or withholds support</p> <p>(h) Use or non-use by contractors of technical or professional services provided by the Council under the Building Act 1984 or the Building (Scotland) Act 1959.</p> <p>Workforce matters and industrial disputes, as defined in paragraphs (a) and (d) cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the transfer of undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply</p>
<b>Officer</b>	The officer designated by the Chief Officer to deal with the contract in question
<b>Parent Company Guarantee</b>	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
<b>Portfolio Holder</b>	A member of the Cabinet to whom political responsibility is allocated in respect of specified functions
<b>Priority Services</b>	Those services required to be tendered as defined in the EU public procurement directives
<b>Procurement Strategy</b>	The document setting out the Council's approach to procurement and key priorities for the next few years.
<b>Buyers' Guide</b>	The suite of guidance documents, together with a number of standard documents and forms, which supports the implementation of these contract procedure rules. The guide is available on the Council's intranet
<b>Quotations</b>	A quotation of price and any other relevant matter (without the formal issue of an invitation to tender)
<b>Relevant Contract</b>	Contracts to which these contract procedure rules apply (see Rule 4)
<b>Shortlisting</b>	The process of selecting suppliers / providers who are to be invited to quote or bid or to proceed to final evaluation
<b>Strategic Procurement Unit</b>	The Council's central procurement unit charged with providing strategic direction and advice to secure value for money in the Council's procurement activities.
<b>Supervising Officer</b>	The line manager's immediate superior.
<b>Supplier/Provider</b>	Any person who asks or is invited to submit a quotation or tender
<b>Tender</b>	A supplier's / provider's proposal submitted in response to an invitation to tender
<b>Tender record log</b>	The log kept by the Monitoring Officer to record details of

	tenders (see Rule 13.5)
<b>Total Value</b>	<p>The whole of the value or estimated value (in money or equivalent value) for single purchase or disposal calculated as follows:</p> <ul style="list-style-type: none"> <li>(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period</li> <li>(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months</li> <li>(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48</li> <li>(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result</li> <li>(e) for nominated suppliers and sub contractors, the total value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub contractor</li> </ul>
<b>TUPE Transfer of undertakings (protecting of employment) Regulations 2006 (SI 2006 No. 246)</b>	<p>Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the Council is transferred from one organisation (eg private contractor, local authority in-house team) to another (eg following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>
<b>Value for Money</b>	<p>Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.</p>

# Officer Employment Procedure Rules

## 1. Recruitment and appointment

### (a) Declarations

(i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.

(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

### (b) Seeking support for appointment.

(i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) No councillor will seek support for any person for any appointment with the Council.

## 2. Recruitment of Head of Paid Service and Chief Officers

### 2.1 The Council will:

#### (a) draw up a statement specifying:

(i) the duties of the officer concerned; and

(ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned above to be sent to any person on request.

### 2.2 Where a post has been advertised as provided in 2.1 above, the Council must:-

(a) interview all qualified applicants for the post, or

(b) select a short list of such qualified applicants and interview those included on the short list.

- 2.3 Where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with 2(i) (b) above.

### **3. Appointment of Head of Paid Service**

The full council will make the appointment of the Head of Paid Service following the recommendation of a short list for such an appointment by a committee of the Council. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

### **4. Appointment of Chief Officers and Deputy Chief Officers**

The full Council will appoint statutory chief officers. A committee of the Council will appoint non-statutory chief officers and deputy chief officers. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

[Note: this provision reflects the rules made in Assembly regulations. It means that elected members will appoint Directors, Heads of Service and Area Managers only.]

### **5. Other appointments**

- (a) **Officers other than those in (4) above.** Appointment of these officers (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

### **6. Disciplinary action - Head of Paid Service, Chief Finance Officer, Monitoring Officer, Head of Democracy**

- (a) No disciplinary action (other than action to which paragraph (b) applies) in respect of the head of the authority's paid service (unless the head of the authority's paid service is also a council manager of the relevant authority), its monitoring officer or its chief finance officer, may be taken by the relevant authority, or by a committee, a sub-committee, a joint committee on which the relevant authority is represented or any other person acting on behalf of the relevant authority, other than in accordance with a recommendation in a report made by a designated independent person under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (investigation of alleged misconduct). The detailed rules appear in paragraph 7 below.
- (b) The action to which this paragraph applies is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; provided such suspension is on full pay and terminates no later than the expiry of two months beginning on the day on which the suspension takes effect.

**7. Investigation of alleged misconduct - Head of Paid Service, Chief Finance Officer, Monitoring Officer, Head of Democracy**

(1) Subject to paragraph (11), where, it appears to the authority that an allegation of misconduct which may lead to disciplinary action has been made against—

- (a) the head of the authority's paid service;
- (b) its monitoring officer; or

(c) its chief finance officer, ("the relevant officer"), as the case may be,

the relevant authority must appoint a committee ("an investigation committee") to consider the alleged misconduct.

(2) The investigation committee must:

- (a) consist of a minimum of 3 members of the relevant authority;
- (b) be politically balanced in accordance with section 15 of the 1989 Act; and must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.

(3) For the purpose of considering the allegation of misconduct, the investigation committee:

- (a) may make such enquiries of the relevant officer or any other person it considers appropriate;
- (b) may request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and
- (c) may receive written or oral representations from the relevant officer or any other person it considers appropriate.

(4) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person")

(5) The designated independent person who is appointed—

- (a) must be such person as may be agreed between the relevant authority and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose; or
- (b) where there is no such agreement, must be such person as is nominated for the purpose by the National Assembly for Wales.

- (6) The designated independent person—
- (a) may direct—
- (i) that the relevant authority terminates any suspension of the relevant officer;
- (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 6 above;
- (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
- (iv) that no steps (whether by the relevant authority or any committee, sub-committee or officer acting on behalf of the relevant authority) by way of disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (d);
- (b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the relevant authority, or which the relevant authority has power to authorise the designated independent person to inspect;
- (c) may require any member or member of staff of the relevant authority to answer questions concerning the conduct of the relevant officer;
- (d) must make a report to the relevant authority—
- (i) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer; and
- (ii) recommending any disciplinary action which appears appropriate for the relevant authority to take against the relevant officer, and
- (e) must no later than the time at which the report is made under sub-paragraph (d); send a copy of the report to the relevant officer.
- (7) Subject to paragraph (8), the relevant officer and relevant authority must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.
- (8) Where there is no agreement under paragraph (7), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.



- (9) The relevant authority must consider the report prepared by the independent person under paragraph (6) (d) above within 1 month of receipt of that report.
- (10) A relevant authority must pay reasonable remuneration to a designated independent person appointed by the investigation committee and any costs incurred by, or in connection with, the discharge of functions under this regulation.
- (11) These rules do not apply in the case of a Head of Paid Service who is also the Council Manager.
- (12) A disciplinary committee of the Council (excluding those persons who served on the investigation committee) will consider the report under para. (9) above along with representations from the officer against whom allegations are made, in accordance with the Council's detailed disciplinary procedures. An appeal will lie to the full Council from the decision of this committee, except in the case of the Head of Paid Service (in which case the Council will consider an appeal, or approve the recommendation of the committee if no appeal is made).

## **8. Disciplinary action or dismissal**

Councillors will not be involved in the dismissal of any officer other than the Head of Paid Service, S.151 Officer and Monitoring Officer, except through the established appeals process.

## **9. Definitions**

(References to "the 1989 Act" are to the Local Government and Housing Act 1989)

**"Head of Paid Service"** means the officer designated as the authority's Head of Paid Service under S.4 of the 1989 Act.

**"Statutory Chief Officer"** means:-

- (a) the Chief Education Officer or Director of Education appointed under S.532 of the Education Act 1996;
- (b) the Director of Social Services appointed under S.6 of the Local Authority Social Services Act 1970;
- (c) the officer having responsibility for the purposes of S.151 of the Local Government Act 1972, S.73 of the Local Government Act 1985 and S.112 of the Local Government Finance Act 1988.

**"Non-Statutory Chief Officer"** means:-

- (a) a person for whom the Head of Paid Service is directly responsible;

- (b) a person who as respects all or most of the duties of the post is required to report directly or is directly accountable to the Head of the authority's Paid Service;
- (c) any person who as respects all or most of the duties of the post is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

**“Deputy Chief Officer”** means a person who as respects all or most of the duties of the post is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.

**“Chief Finance Officer”** or **“S.151 Officer”** means the officer appointed for the purposes of S.151 of the Local Government Act 1972, S.73 of the Local Government Act 1985 or S.112 of the Local Government Finance Act 1988.

**“Monitoring Officer”** means the officer designated under S.5 (1) of the 1989 Act.

**“Chief Officer”** means:-

- (a) the Head of Paid Service;
- (b) the Monitoring Officer;
- (c) a statutory Chief Officer;
- (d) a non-statutory Chief Officer.

**“Disciplinary action”** means:-

In relation to a member of staff of a relevant authority any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the relevant authority has undertaken to renew such a contract;

**Having had regard to the Conduct of Members (Principles) (Wales) Order 2001 as amended and The Local Authorities (Model Code of Conduct) (Wales) Order 2008 and upon the advice of its Standards Committee, Monmouthshire County Council has adopted the following Code of Conduct with effect from 2 May 2008**

## **MONMOUTHSHIRE COUNTY COUNCIL CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS**

### **PART 1**

#### **Interpretation**

In this code —

**“co-opted member”**, in relation to a relevant authority, means a person who is not a member of the authority but who —

- (a) is a member of any committee or sub-committee of the authority, or
- (a) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

**“meeting”** means any meeting —

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint-committee of any executive or board of the authority, or
- (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committee and Political Groups) Regulations 1990,

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

**“member”** includes, unless the context requires otherwise, a co-opted member;

**“relevant authority”** means —

- (a) a county council,

- (b) a county borough council,
- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995;

**“you”** means you as a member or co-opted member of a relevant authority; and

**“your authority”** means the relevant authority of which you are a member or co-opted member.

In relation to a community council, references to an authority’s monitoring officer and an authority’s standards committee are to be read, respectively, as references to the monitoring officer and the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(2) of the Local Government Act 2000.

## **PART 2**

### **General Provisions**

1. Save where paragraph 3(a) applies, you must observe this code of conduct
  - (a) whenever you conduct the business, or are present at a meeting, of your authority;
  - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
  - (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
  - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6 (1) (a) and 7.
2. You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

3. Where you are elected, appointed or nominated by your authority to serve —
  - (a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
  - (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
  
4. You must —
  - (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
  - (b) show respect and consideration for others;
  - (c) not use bullying behaviour or harass any person; and
  - (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.
  
5. You must not —
  - (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
  - (b) prevent any person from gaining access to information to which that person is entitled by law.
  
6. (1) You must —
  - (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
  - (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);

- (c) report to the Public Services Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.
- (2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.
7. You must not —
- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority —
- i. imprudently;
  - ii. in breach of your authority's requirements;
  - iii. unlawfully;
  - iv. other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
  - v. improperly for political purposes; or
  - vi. improperly for private purposes.
8. You must —
- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —
- the authority's head of paid service;
  - the authority's chief finance officer;
  - the authority's monitoring officer;
  - the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action

proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

### **PART 3**

#### **Interests**

##### *Personal Interests*

10. (1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if

(a) it relates to, or is likely to affect —

(i) any employment or business carried on by you;

(ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;

(iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;

(iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

- (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
- (vi) any land in which you have a beneficial interest and which is in the area of your authority;
- (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
- (viii) any body to which you have been elected, appointed or nominated by your authority;
- (ix) any —
  - (aa) public authority or body exercising functions of a public nature;
  - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
  - (cc) body whose principal purposes include the influence of public opinion or policy;
  - (dd) trade union or professional association; or
  - (ee) private club, society or association operating within your authority's area,
    - in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or
- (c) a decision upon it might reasonably be regarded as affecting —
  - (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;



- (ii) any employment or business carried on by persons as described in 10(2)(c)(i),
- (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
- (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management, to a greater extent than the majority of—
  - (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

### ***Disclosure of Personal Interests***

11. (1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority and you make
  - (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or
  - (c) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or

when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

- (3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
- (4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer from time to time but, as a minimum containing —
  - (a) details of the personal interest;
  - (b) details of the business to which the personal interest relates; and
  - (d) your signature.
- (5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.
- (6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.
- (7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

### *Prejudicial Interests*

12 (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to —

- (i) another relevant authority of which you are also a member;
- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
- (iii) a body to which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
- (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where

you are in receipt of, or are entitled to the receipt of such pay from your authority;

(iv) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;

(v) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

#### ***Overview and Scrutiny Committees***

13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(e) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

#### ***Participation in Relation to Disclosed Interests***

14. (1) Subject to sub-paragraphs (2), (3) and (4), where you have a prejudicial interest in any business of your authority (or where the information relating to it is sensitive information as defined in paragraph 16(3)) you must, unless you have obtained a dispensation from your authority's standards committee —

(a) withdraw from the room, chamber or place where a meeting considering the business is being held—

(i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

(ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(b) not exercise executive or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you —

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing —

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

- (4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

;

#### **PART 4**

#### **THE REGISTER OF MEMBERS' INTERESTS**

##### ***Registration of Financial and Other Interests and Memberships and Management Positions***

15. (1) Subject to sub-paragraphs (3) and (4), you must, within 28 days of
- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
  - (b) your election or appointment to office (if that is later),
- register your financial interests and other interests, where they fall within a category mentioned in paragraph 10(2)(a) in your authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph (3), you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under sub-paragraph (1), register that new personal interest or change by providing written notification to your authority's monitoring officer.
- (3) Sub-paragraphs (1) and (2) do not apply to sensitive information determined in accordance with paragraph 16(1).
- (4) Sub-paragraph (1) will not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

### *Sensitive information*

- 16.(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

### *Registration of Gifts and Hospitality*

17. You must, within 28 days of receiving any gift, hospitality material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality material benefit or advantage.

## CODE OF CONDUCT FOR EMPLOYEES

The Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001 incorporates the following code into every contract of employment for qualifying employees.

### *General Principles*

1. The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant authorities. The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

### *Accountability*

2. Qualifying employees of relevant authorities work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

### *Political Neutrality*

3. Qualifying employees of relevant authorities, whether or not politically restricted, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

### *Relations with members, the public and other employees*

4. Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.

5. Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias.

### *Equality*

6. Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

### *Stewardship*

7. Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise



property, vehicles or other facilities of the authority for personal use unless authorised to do so.

#### *Personal Interests*

**8.** Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

(1) any rules of their relevant authority on the registration and declaration by employees of financial and non - financial interests,

(2) any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority.

#### *Whistleblowing*

**9.** In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose.

#### *Treatment of Information*

**10.** Openness in the dissemination of information and decision making should be the norm in relevant authorities. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

#### *Appointment of Staff*

**11.** Qualifying employees of relevant authorities involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved

in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

#### *Investigations by Monitoring Officers*

**12.** Where a monitoring officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that monitoring officer in connection with such an investigation.

**To the extent that its provisions do not conflict with the foregoing statutory code, the Council has adopted (after appropriate consultation) the following Code of conduct for Employees.**

#### **Introduction**

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code of Conduct is based on the recommendations of the Committee on the Standards of Conduct in Public Life. It applies to employees' conduct both within the council and when dealing with other organisations as a representative of the council. The principles detailed below are the basic ones governing all council employees.

The Code does not affect an employee's rights and responsibilities under the law; its purpose is to provide clear and helpful advice but all employees must comply with the Code.

This Policy should be read in conjunction with the council's Whistle Blowing procedure, the Dignity at Work policy and the Social Media Policy. This allows employees to disclose any wrong doing on the part of any employee or Councillor under The Public Interest Disclosure Act 1998. A breach of this Code may give rise to disciplinary action, which will be taken in accordance with the Council's Disciplinary Procedure.

The Code incorporates "The Seven Principles of Public Life"

#### ***Selflessness***

Employees shouldn't take decisions which will result in any financial or other benefit to themselves, their family, or their friends. Decisions should be based solely on the Council's best interests.

#### ***Integrity***

Employees shouldn't place themselves under any financial or other obligation to an individual or an organisation which might influence them in their work with the Council.

### ***Objectivity***

Any decisions that employees take in the course of their work, including making appointments, awarding contracts, or recommending individuals for rewards or benefits must be based solely on merit.

### ***Accountability***

Employees are accountable to the council as their employer. The council, in turn, is accountable to the public.

### ***Openness***

Employees should be as open as possible in all the decisions and actions that they take. They should give reasons for their decisions and shouldn't restrict information unless this is clearly required by council policy or by the law.

### ***Honesty***

Employees have a duty to declare any private interests, which might affect their work with the council.

### ***Leadership***

Employees in a leadership or managerial position should promote and support these principles by their leadership and example.

### **Standards**

The aim of this code is to apply standards for all Monmouthshire County Council employees on the understanding that the citizens of Monmouthshire are entitled to expect the highest standards of conduct and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality.

Employees will be expected to bring any deficiency in the provision of service or any impropriety or breach of procedure which would have a detrimental impact on the Council to the attention of the appropriate level of management.

The standards laid down in this Code are considered to be fundamental to the reputation of the Council. Any uncertainty about the meaning of this code is not accepted as a reason for failing to comply with it. If employees are in doubt they should seek advice from a Chief Officer.

### **Social Media**

It's your own personal choice whether or not you participate in any kind of social media activity in your own time – the views and opinions that you express are your own. However, as a council employee you should be aware that any information which you post about Monmouthshire County Council cannot be kept entirely separate from your working life.

What you say openly online can be accessed around the world within seconds, it might be shared or re-published elsewhere (online or in print) and it will continue to

be available for all to see in the future. You must be willing to take personal responsibility for anything that you say online.

The council would expect staff to make a distinction between their own views and those where they represent their employer. It may be appropriate to add a disclaimer to your personal blog or social media profile to make it clear that your personal accounts are your own – for example: “These views are my own not my employers”.

Think about what capacity you’re speaking in, particularly if you are commenting about Monmouthshire County Council. Make sure you avoid misunderstandings about whether you’re speaking as part of your work or not. Seek further advice if you’re unsure.

Check your online privacy settings so that you understand who can see the information you publish and who can view your personal information.

Respect privacy and confidentiality – make sure you don’t publish any information that should be kept private.

Stay safe – don’t give out personal details such as your address or phone number.

Make sure that you’re familiar with the council’s policy about personal use of electronic communications in the workplace.

## **Relationships**

### ***The Local Community and Service Users***

Employees should always remember the responsibilities to the citizens they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

### ***Councillors***

Employees are responsible to the Council through its senior managers and leaders. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Council’s work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be treated with caution.

### ***Contractors***

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by competition against other tenders, and no favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against. At all times the requirements of the Councils Contract Standing Orders must be applied.

Employees should let their Chief Officer know if they appoint or supervise contractors with whom they have a current or previous relationship in a private or domestic capacity.

All members of the public, citizens, customers, colleagues and Elected Members should be dealt with fairly, equitably, with dignity and respect in line with the principles of the Equality Act 2010 and the policies of the Council.

### **Appointment and Employment**

All appointments will be made on merit. It is unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post.

In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

Similarly, employees should not be involved in decisions relating to discipline promotion or pay for any employee who is a relative, partner, etc.

### ***Canvassing of members or Employees of the Council***

Candidates will be disqualified if they canvass members or employees of the council directly or indirectly in connection with any appointment within the Council. Employees can give a written reference of a candidate's suitability for appointment, but they can't solicit for them or recommend them for appointment or promotion.

### ***Politically Restricted Posts (PoRPs)***

The effect of including a local authority employee on the list of 'politically restricted posts' is to prevent that individual from having any active political role either in or outside the workplace. Politically restricted post holders will automatically be disqualified from

- Standing for or holding elected office
- Acting as an election agent or sub agent
- Being an officer of a political party or of any branch of such a party or a member of any committee or sub-committee of such a party
- Canvassing on behalf of a political party or on behalf of a person who is, or proposes to be, a candidate for election
- Speaking to the public at large or to a section of the public with the apparent intention of affecting public support for a political party.

These restrictions are incorporated as terms in the employee's contract of employment.

Politically restricted posts fall into two broad categories: specified posts and sensitive posts.

**Specified posts:**

- Head of the Paid Service (Chief Executive)
- Statutory Chief Officers, Chief Finance officer (section 151 officer)
- Non-statutory Chief Officers (officers reporting to the Chief Executive)
- Deputy Chief Officers (officers reporting to a Chief Officer)
- The Monitoring Officer
- Officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the authority.

**Sensitive posts:**

A sensitive post is one which meets one or both of the following duties-related criteria:

- Giving advice on a regular basis to the Council, to any committee or sub-committee of the Council or to any joint committee on which the Council is represented; or where the Council operates executive arrangements, to the executive of the authority; to any committee of that executive; or to any member of that executive who is also a member of the authority
- Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

Teachers and Head Teachers are exempt from political restrictions and are not regarded as holding 'PoRPs' whatever their role.

***Political Neutrality***

Employees work for the Council as a whole, including Elected Members and must ensure that the individual rights of all members are respected.

If employees are required to advise political groups, they must do so in a way which does not compromise their political neutrality.

Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

***Outside Commitments***

Employees on Band G and above will need to obtain written consent from their Chief Officer prior to taking on any outside employment. All employees should be clear

about their contractual obligations and should not take outside employment which could conflict with the authority's interests or use Council premises or equipment for other than Council business.

### ***Personal interests***

Employees must declare in writing to their Chief Officer any financial or non-financial interests which could conflict with the Council's interests. A copy of this declaration should be sent to the Chief Executive.

Employees should tell their Chief Officer if they are a member of any organisation that isn't open to the public without formal membership and commitment or allegiance and which has secrecy about rules or membership or conduct.

### ***Disclosure of Information***

The Council's decision making process must be transparent and open. The Council must provide the public with clear and accessible information about how it operates. It must also ensure that there is an effective complaints procedure in place for the public to use when things go wrong.

The Council is committed to ensuring that all data collected, held or obtained under its control is dealt with in an ethical and legally responsible manner. Failure to do so would jeopardise the credibility of the council and may cause the council to breach disclosure legislation.

The Council's policy is that information will be made open and available. There are exceptions to this principle of openness where confidentiality is involved. Information may be withheld if, for example, it would compromise a right of personal or commercial confidentiality. This doesn't apply where there is a legal duty to provide information. Employees must not break the law in this area.

In particular, information mustn't be supplied about employees to any person outside the Council unless the consent of the employee is obtained first. This won't apply where there is a statutory duty to provide information, e.g. HMRC, DWP etc. or in the process of prevention or detection of fraud, as detailed below. If there is any doubt employees should raise the matter with their line manager.

Breaches of confidentiality will constitute a breach of this code which could result in disciplinary action, including dismissal. Under the Data Protection Act 1998, breaches of confidentiality can lead in certain circumstances, to legal proceedings against employees as individuals.

In order to ensure a co-ordinated approach to the Council's external relations, requests for information from the media should be dealt with by the Communications Manager or an employee authorised by a Chief Officer.

If in any doubt as to whether to divulge information to anyone the relevant line manager should be consulted.

### ***Separation of roles during Tendering***

Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness and must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

Employees contemplating a management buyout or similar arrangement should, as soon as they have formed a definite intent, inform their Chief Officer and withdraw from the contract awarding processes.

Employees should ensure that no favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

### ***Bribery and Corruption***

Under the Bribery Act 2010 employees must be aware that it is a serious criminal offence to;

- Bribe a person to induce or reward them to perform a relevant function improperly
- Request, accept or receive a bribe as a reward for performing a relevant function improperly
- Use a bribe to influence a foreign official to gain a business advantage.

### ***Surveillance***

There may be circumstances that warrant the authority to carry out covert surveillance. This will only be in situations where all other investigative options have been exhausted.

### ***Use of Financial Resources***

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

### ***Hospitality***

Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. They should be properly authorised by Chief Officers and recorded.



People making the offer of hospitality should be courteously but firmly declined and they should be informed of the procedures and standards operating within the authority.

Employees should not accept significant personal gifts from contractors and outside suppliers, although insignificant items of token value such as pens, diaries, etc. are acceptable.

When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.

### **Sponsorship - Giving and Receiving**

Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the authority wishes to sponsor an event or service an employee nor any partner, spouse or relative must benefit from the sponsorship in a direct way without there being full disclosure to their Chief Officer of their interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

The Council and the citizens of Monmouthshire expect the highest standards of conduct from all employees, therefore we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. You can do this through the Whistle Blowing policy if you want. Remember that if you fail to inform us it may result in disciplinary action being taken against you for failing to tell us.

## WHISTLEBLOWING” POLICY

### **Purpose**

The Council and the citizens of Monmouthshire expect the highest standards of conduct from all employees, therefore we encourage employees and others with serious concerns about any aspect of the Council’s work to come forward and voice them in a safe environment.

The Council recognises that employees are in an ideal position to be aware when malpractice, negligence or wrongdoing occurs. However, they may not express their concerns due to fear of harassment or victimisation.

This policy enables employees to raise concerns at an early stage and in the correct way.

Any serious concerns employees have about the conduct of members or officers of the Council, or agents or contractors of the Council, or about service provision, should be reported under this policy. This policy doesn’t cover grievances relating to an employee’s employment contract and formal complaints about the Council. Separate policies exist for those, and this Whistleblowing Policy is intended to cover concerns that fall outside the scope of those other procedures.

### **Aims and Scope**

This policy aims to:

- Inform employees of how to raise concerns which they reasonably believe are in the
- public interest
- Provide a procedure for employees to raise concerns
- Ensure confidentiality is maintained
- Ensure that employees who raise a concern are protected from recrimination and fear of harassment or victimisation.

This policy applies to employees, volunteers, workers and agency workers, contractors or partners working for or on behalf of the Council. A separate policy applies for school based staff.

It is appreciated that it’s sometimes difficult to report malpractice or wrongdoing, but failing to report it is serious and can in itself result in disciplinary action against you.

If an allegation is made which it is believed to be in the public interest but is not confirmed by an investigation, no action will be taken against the person who raised the initial concern. However, if the allegation is malicious, vexatious or for personal gain disciplinary action may be taken against the person making those claims.

Sometimes the investigation process may have to reveal the source of the information and a statement by you may be required as part of the evidence. The Council will do its best to protect your identity when you raise a concern and do not want your name

to be disclosed, but this can't be guaranteed if it means we can't take action against the wrongdoer.

Areas covered by this policy include:

- a criminal offence
- a miscarriage of justice
- health or safety risks
- damage to the environment
- deliberate covering up of information tending to show any of the above five matters
- A breach of any statutory code of practice including the Council's Standing Orders
- Unethical conduct
- Abuse of power for any unauthorised purpose or for personal gain
- Unfair discrimination in the provision of services
- Fraud, corruption and bribery
- Racial harassment, sexual or physical abuse of clients
- Vulnerable adult or child safeguarding concerns
- Showing undue favour over a contractual matter or to a job applicant

#### **Relevant Legislation and Council policies**

The Council recognises its responsibilities under the following legislation;

- The Public Interest Disclosure Act 1998
- The Enterprise and Regulatory Reform Act 2013
- Employment Rights Act 1999
- The Equality Act 2010
- The Bribery Act 2010
- The Trade Union and Labour Relations (Consolidation) Act 1992

This Policy should be read in conjunction with the Councils;

- Code of Conduct
- Disciplinary Policy
- Equality Policy
- Grievance Policy

If an employee is the subject of disciplinary or redundancy procedures they won't be halted as a result of the whistleblowing.

In order to be protected the disclosure must be made in the public interest and not for personal gain. You must reasonably believe that the information, and any allegation contained in it, is substantially true.

#### **How to raise a concern**

Employees should normally raise any concern they may have with their immediate line manager. However, if employees feel unable to raise a concern through this route for whatever reason, they should write to the Chief Executive, County Hall, Rhadyr, Usk, Monmouthshire, NP15 1GA and mark it confidential.

This depends on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.

If you feel that your line manager is involved, the concern should be raised with the relevant Chief Officer or the Chief Executive. If the concern is about the Chief Executive it should be raised with the Leader of the Council, if the concern relates to an Elected Member, it should be raised with the Chief Executive.

Concerns are better raised in writing. Employees who wish to raise a concern in writing should:

- Set out the background and history of the concern, giving names, dates and places, where possible
- Give the reason why they are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer.

The earlier a concern is raised the easier it is to take effective action. We appreciate that it can be difficult to know what to do when the concern feels serious because it relates to service user welfare, malpractice, health and safety or a possible fraud that might affect others or the organisation itself. You may be worried about raising such a concern and may think it best to keep it to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next. If you are at all worried please speak to someone rather than leave it. You may of course invite your Trade Union to assist you to raise the matter or speak to a member of the Employee Services Team.

The person with whom you raise the concern becomes the Designated Officer responsible for investigating the matter and for keeping you informed on the outcome.

*If in doubt – please raise it!*

### **How the Council will respond**

The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be investigated internally
- be referred to the Police
- be referred to the external Auditor
- form the subject of an independent inquiry

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Some concerns may be resolved without the need for investigation.

Within 10 working days of a concern being received, the Designated Officer will write:

- acknowledging that the concern has been received
- indicating how it proposes to deal with the matter
- indicating whether any initial enquiries have been made, and
- indicating whether further investigations will take place, and if not, why not
- indicating support mechanisms available

The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised. If necessary, further information may be requested from the employee.

The Employee Services team can offer further advice and support.

## **Safeguarding Whistleblowers - Our Assurances to You**

### **Your safety**

The Chief Executive is committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffer any form of retribution, victimisation or detriment as a result. It won't matter if you are mistaken provided you genuinely believe that you are acting in the public interest. Of course we cannot extend this assurance to someone who maliciously raises a matter they know is untrue.

### **Your confidence**

With these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, please say so at the outset. If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example, where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

Please remember that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly, you should not assume we can provide the assurances we offer in the same way if you report a concern anonymously.

The Council accepts that employees need to be assured that the matter has been properly addressed. Subject to legal constraints, the employee who raised the concern will receive information about the outcomes of any investigations.

### **How the matter can be taken further**

This policy is intended to provide employees with a logical route to raise concerns they may have within the Council. However, if employees do not wish to raise concerns internally or if the concern has not been dealt with satisfactorily, the following are possible contact points:

- Your local councillor (if you live in the area of the Council)
- Welsh Audit Office – the council's external auditors
- An organisation which is prescribed with the Public Interest Disclosure Act
- Solicitors
- The Police
- Trade Unions
- Professional Bodies
- **Public Concern at Work** – an independent authority which seeks to ensure that concerns
- about malpractice are raised and addressed in the workplace.

If employees take matters outside the council, it will be necessary to ensure that no confidential or legally privileged information is disclosed. However, if the allegation is malicious or vexatious or for personal gain disciplinary action may be taken.

**Records**

The Chief Executive has overall responsibility for the maintenance and operation of this policy and will maintain a record of concerns raised and the outcomes (but in a form which does not compromise confidentiality) and will report as necessary to the council.

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# Protocol on Member/Officer Relations

## 1. INTRODUCTION

- 1.1 The relationship between members and employees is an essential ingredient that goes into the successful working of the organisation. This relationship within Monmouthshire County Council is characterised by mutual respect, informality and trust. Members and employees feel free to speak to one another openly and honestly. Nothing in this protocol is intended to change this relationship. The purpose of this protocol is rather to help members and employees to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this protocol lies with the Monitoring Officer.
- 1.2 The protocol must be read and operated in the context of any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.

## 2. ROLES OF MEMBERS AND EMPLOYEES

- 2.1 The respective roles of members and employees can be summarised as follows:

Members and employees are servants of the public and they are indispensable to one another. Their responsibilities are, however, distinct. Members are responsible to the electorate and serve only as long as their term of office lasts. Employees are responsible to the Council. Their job is to give advice to members and the Council and to carry out the Council's work under the direction and control of the Council, the executive and relevant committees. Mutual respect between Councillors and employees is essential to good local government.

### 2.2 Members

Members have three main areas of responsibility: determining the policy of the Council and giving it political Leadership; representing the Council externally; and acting as advocates on behalf of their constituents. It is not the role of members to involve themselves in the day to day management of Council services.

### 2.3 Members of the Executive, Chairmen and Vice-Chairmen

Members of the Executive and Chairmen and Vice-Chairmen of Committees have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from and more complex than

those of members without those responsibilities and this is recognised in the expectations they are entitled to have.

#### 2.4 **Opposition Members**

As individual members of the Council, all members have the same rights and obligations in their relationship with employees and should be treated equally. This principle is particularly important in the context of Overview and Scrutiny. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between employees, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

#### 2.5 **Employees**

The role of employees is to give advice and information to members and to implement the policies determined by the Council.

Certain employees, e.g. Head of Paid Service, Monitoring Officer, Chief Financial Officer (Section 151 Officer) and the statutory chief officers have responsibilities in law over and above their obligations to the Council and its members that they must be allowed to discharge.

### 3. **EXPECTATIONS**

Members can expect from employees:

- a commitment to the Council as a whole, and not to any political group
- a working partnership
- an understanding of and support for respective roles, workloads and pressures
- timely response to enquiries and complaints
- professional advice, not influenced by political views or preference, which does not compromise the political neutrality of employees
- regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- awareness of and sensitivity to the political environment
- respect, dignity and courtesy
- training and development in order to carry out their role effectively
- integrity, mutual support and appropriate confidentiality
- not to have personal issues raised with them by employees outside the agreed procedures
- that employees will not use their relationship with members to advance their personal interests or to influence decisions improperly
- that employees will at all times comply with the relevant Code of Conduct.



Employees can expect from members:

- a working partnership
- an understanding of and support for respective roles, workloads and pressures
- political Leadership and direction
- respect, dignity and courtesy
- integrity, mutual support and appropriate confidentiality
- not to be subject to bullying or to be put under undue pressure
- members should have regard to the seniority of employees in determining what are reasonable requests, having regard to the power relationship between members and employees, and a potential vulnerability of employees, particularly at junior levels
- that members will not use their position or relationship with employees to advance their personal interests or those of others or to influence decisions improperly
- that members will at all times comply with the relevant Code of Conduct.

#### 4. **WHEN THINGS GO WRONG**

##### 4.1 **Procedure for Employees**

From time to time the relationship between members and employees may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or member, employees will have recourse to the grievance procedure or to the Council's Monitoring Officer, as appropriate to the circumstances.

##### 4.2 **Procedure for Members**

In the event that a member is dissatisfied with the conduct, behaviour or performance of an employee, the matter should be raised with (the appropriate Head of Service/Chief Officer). Where the employee concerned is (a Head of Service or Chief Officer) the matter should be raised (with the appropriate Chief Officer or) with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Leader of the Council. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure.

# **Protocol for Self-Regulation of Member Conduct**

## **General Principles**

1. To promote high standards of conduct and behaviour as a means of strengthening respect and trust amongst members.
2. The protocol does not replace the Member-Officer Relations Protocol set out in the Council's Constitution.
3. It is NOT intended to replace the Code of Conduct rather it is intended to sit alongside it, enabling behaviour which may not reach the Ombudsman's threshold to be dealt with.
4. Members will make all reasonable attempts to resolve disputes through agreed internal processes subject to their obligations under the Members' Code of Conduct.
5. Members will avoid personal confrontation in any public forum, especially full Council and through the media.
6. These commitments will not stifle legitimate political debate or scrutiny.
7. Group discipline will become the cornerstone of self-regulation with Group Leaders taking responsibility for their own members.
8. Group Leaders individually and collectively will work to ensure compliance with this protocol.
9. Members will commit to training and development in support of this protocol

## **Working to avoid problems**

To minimise the number of instances of alleged breaches all Group Leaders are asked to commit to:-

1. A Member Learning and Development Strategy – to which they will seek to secure the commitment of their group members. All reasonable endeavours will be made to ensure that the Learning and Development Strategy identifies and responds to the needs of members.
2. Attending relevant Member training events - in particular those relating to the Code of Conduct or probity courses within the scope of their role.
3. Support the provision made by the County Council for complying with sections 5 and 7 of the Local Government Measure 2011 (Annual reports & Training and development)

## **Role of Group Leaders**

A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant's own Group

Leader, who will then refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.

Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should seek to be informal, resolved through face to face meetings. Group Leaders will need to retain some records but the process will not be “document heavy”. The emphasis should be on training, education, mediation and conciliation.

When appropriate, a sanction such as removal from a committee or an outside body, may be used in extreme cases or after persistent breaches and the matter will be referred to the Public Services Ombudsman for Wales.

Prior to considering any sanction, or training, the relevant Group Leader may consult with a member of the Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer. The Standards Committee will seek to ensure fairness and consistency in the discipline imposed within each Group.

At the next available Group Leaders’ meeting any issue of discipline which has been referred to a Group Leader will be discussed with the group and with the objective of seeking to ensure that fair and consistent sanctions are applied.

### **Unaffiliated Members**

As far as unaffiliated members are concerned, the Chair of the Council will fulfil the role of Group Leader. Concerns regarding the conduct of an unaffiliated member should be referred to the Chair who will apply the same principles and standards as those of the Group Leaders in terms of training/mediation/conciliation.

In the event that an unaffiliated member refuses to provide reasonable co-operation to the Chair of the Council, or if the breach is significant, or in the event of repeated breaches, then the Council may remove the unaffiliated member from any committee seats allocated by the full Council. Such a proposal should be put to the Council jointly by the Group Leaders. In the case of persistent breaches the matter shall be referred to the Ombudsman by the Monitoring Officer or in his/her absence the Deputy Monitoring Officer.

### **Persistent Breaches**

In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual member or members is damaging to relations between political groups or to the reputation of the Council, then the Group Leaders will meet with the Chief Executive and Monitoring Officer to agree a way forward. Consideration will be given to joint references to the Ombudsman, by the Group Leaders, for persistent low level breaches. The collective Group Leaders will also assume this responsibility in relation to unaffiliated members.

### **Standards Committee**

- The Standards Committee Members will play a supporting/advisory role to the Group Leaders. This process will be initiated at the request of the Group Leader, in a particular case.
- Such meetings will be private and informal.
- Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chair of the Council) and the members of the Standards Committee shall remain private and confidential.
- When acting in an advisory role to the Group Leaders/Chair of the Council, the Standards Committee has no right of sanction. However, it shall be open to the Group Leader to request that the Standards Committee, as a last resort, issue a public censure against a group member. Where this is to be considered, the member who may be subject to censure, will be provided with a reasonable opportunity to make submissions to the Standards Committee members, either in person or in writing.
- The recommendations available to the Standards Committee will include a recommendation that a Group Leader takes action against one of their members, including removal from committee or outside body.

**Protocol - Standard of Conduct Expected of Members**

This protocol sets out the standards of conduct expected from Members within Monmouthshire County Council in dealing with each other. It should be read in conjunction with the Members Code of Conduct and the Local Resolution Procedure. It adds to these documents and does not detract from them.

Members are expected to:

1. **PUBLIC BEHAVIOUR**

- 1.1 show respect to each other;
- 1.2 not to make personal abusive comments about each other;
- 1.3 not to publish anything insulting about each other;
- 1.4 not to make malicious allegations against each other;
- 1.5 not to publish or spread any false information about each other;
- 1.6 show respect to diversity and equality;

2. **BEHAVIOUR IN MEETINGS**

- 2.1 behave with dignity;
- 2.2 show respect to the Chair and obey his/her decisions;
- 2.3 not to use indecent language nor make racial remarks or remarks which prejudice any section of society;

3. **CONFIDENTIALITY**

- 3.1 keep the confidentiality of exempt papers and any other documents which are not public;
- 3.2 not to release confidential information to the press or the public;
- 3.3 not to use confidential information for purposes other than intended;

4. **LOCAL MEMBERS**

- 4.1 work with Members of adjoining electoral divisions for the benefit of the locality;
- 4.2 if dealing with any matter relating to another electoral division:
  - 4.2.1 explain to anyone seeking assistance that he/she is not the local Member;
  - 4.2.2 inform the local Member, unless it would lead to a breach of confidentiality.

# **Management Structure**

## **Chief Officer Team**

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**Strategic Leadership Team**  
**(Chief Officers supplemented by Heads of Service)**

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## Chief Executive management functions

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## **Chief Officer management functions**

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## **Chief Officer management functions**

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## **Chief Officer management functions**

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**SECTION 1****1. INTRODUCTION****1.1 Purpose and Content of the Constitution**

- 1.1.1 The Constitution describes the various bodies that make up the Council, their functions, Membership and procedural rules.
- 1.1.2 In Section 3 (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.
- 1.1.3 You can get a better understanding of what each of the Council's bodies do in Sections 4 to 10 of this Constitution, including Full Council, Cabinet, Select Committees, Standards Committee and Regulatory Committees. Section 11 provides information on the management and Officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. Responsibility for functions at Section 13 says which Council bodies, and which Officers, have authority to make which decisions.
- 1.1.4 The procedural rules that apply to the different Council bodies are contained in the sections relating to those bodies, eg Full Council (Section 4), the Cabinet (Section 6) and Overview and Scrutiny (Section 7). You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view.
- 1.1.5 Sections 18 to 21 have the Codes of Conduct and Protocols which Officers and Members have agreed to comply with. They set the standards of behaviour.
- 1.1.6 The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it.

**1.2 How the Council Operates**

- 1.2.1 The Council is comprised of 43 Councillors elected every four years. Each Councillor is democratically accountable to the residents of their electoral division as well as all of those who live in Monmouthshire. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them.
- 1.2.2 All Councillors have agreed to follow a Code of Conduct, to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advising on the Code of Conduct.
- 1.2.3 All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall Policy Framework and set the budget each year. The Council appoints the Leader of the Council annually. The Leader then decides the size and Membership of the Cabinet ie the role of individual Members of the Cabinet and arrangements for the exercise and delegation of Executive Functions. The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution, together with making decisions within the Budget and Policy Framework set by the Council.

If you need any further help please do not hesitate to contact us.

Monitoring Officer, Innovation House PO Box 106 Caldicot NP26 9AN Tel 01633 644644

Whilst the Constitution is very long we hope that you will find it easy to use. We have spent a lot of time trying to make it as easy to follow as is possible with such a long and complex legal document.

**SECTION 2****1. PURPOSE, DEFINITION INTERPRETATION AND AMENDMENT OF THE CONSTITUTION****2.1 Purpose of the Constitution**

The purpose of the Constitution is to:

- 2.1.1 enable the Council to provide clear leadership to the Community in partnership with citizens, businesses and other organisations;
- 2.1.2 support the active involvement of citizens in the process of local authority decision making;
- 2.1.3 help Councillors represent their constituents more effectively;
- 2.1.4 enable decisions to be taken efficiently and effectively;
- 2.1.5 create a powerful and effective means of holding decision makers to public account;
- 2.1.6 ensure that no one will scrutinise a decision in which they are directly involved;
- 2.1.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- 2.1.8 provide a means of improving the delivery of services to the community.

**2.2 Definitions in the Constitution**

2.2.1 The Constitution of the Council is this document (Sections 1 to 23)

2.2.2 Within the Constitution the following words and phrases have the meaning set out below:

“Budget”	the overall revenue and capital budget approved by Full Council (Section 4);
“Chief Officer”	any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services): who reports directly to the Head of Paid Service in respect of all or most of his/her duties; or for whom the Head of Paid Service is directly responsible;
“Councillor”	a person elected to the Council to represent an area (called an electoral division) within Monmouthshire County Council;
“Deputy Officer”	Chief any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who reports directly to a Chief Officer in respect of all or most of his/her duties;
“Executive”	the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions;
“Executive Decision”	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member bodies to whom the Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;

- “Executive Function” (a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. Any function that is not exercisable only by Full Council or delegated to another Member body is an Executive Function.
- (b) Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.

It should be noted that Regulatory functions such as planning licensing and building control, are not Executive Functions;

“Forward Work Programme” the Forward Work Programme is a document which lists all of the decisions that the Council and the Cabinet intend to take and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered;

“Full Council” the body where all Councillors act to exercise functions of the Council;

“Head of Democracy” an Officer who must be appointed by law to carry out certain functions. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Head of Democracy;

“Head of Paid Service” an Officer who must be appointed by law to carry out certain functions. See Section 11 for more details. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Head of Paid Service;

“Leadership Team” the senior management body for Officers (Section 11). It includes those Officers designated by the Head of Paid Service from time to time as Members of the Leadership Team;

“Local Government (Wales) Measure 2011” referred to as “The Measure”. Legislation introduced, inter alia, to strengthen local democracy, deal with changes to executive arrangements, overview and scrutiny, county councils and Member payments;

“Member” either a Councillor or a person chosen by the Council to serve on one of its Member Bodies (called “a Co-Opted Member”);

“Member Body” any of the following:

- Full Council;
- Cabinet;
- a Select Committee;
- Licensing Committee;
- Standards Committee (or one of its sub-committees);
- Planning Committee;
- Appeals Panel;

	Audit Committee;
	Democratic Services Committee;
	Note - references to Committee also includes Sub-Committee;
“Monitoring Officer”	an Officer who must be appointed by law to carry out certain functions. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Monitoring Officer;
“Non-Executive Functions”	any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a Member body other than the Cabinet;
“Planning Application”	any of the following: application for planning permission (including renewal); application for approval of reserved matters; application for listed building consent; application relating to trees; proposal to serve an urgent works notice or acquire a listed building in need of repair; application for conservation area consent; application for advertisement consent; application to vary or remove conditions on a planning condition;
“Policy Framework”	See Section 4.2;
“Section 151 Officer”	an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Section 151 Officer;
“Service”	one of the services provided by the Council;
“Single Integrated Plan (SIP)”	this is the single plan for the area that reflects the needs of the local population. The SIP builds on and brings together in one document the joint work previously developed through the Community Plan, as well as the Community Safety, Children and Young Peoples and the Health Social Core and Wellbeing Partnership Plan.

**2.3 Interpretation of the Constitution**

- 2.3.1 We have tried to make the Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.
- 2.3.2 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules.

2.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

#### 2.4 **Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Section 151 Officer shall be responsible for keeping under review the Financial Regulations set out in Section 16 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. He/she shall report any amendments made to Section 16 to the next available Council meeting for noting.

#### 2.5 **Protocol for Monitoring and Review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:

- 2.5.1 observe meetings of different parts of the Member and Officer structure;
- 2.5.2 undertake an audit trail of a sample of decisions;
- 2.5.3 record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and,
- 2.5.4 compare practices in this Council with those in comparable authorities, or national examples of best practice.

#### 2.6 **Changes to the Constitution**

##### 2.6.1 Approval

Subject to paragraphs 2.6.2 and 2.6.3 below, changes to the Constitution will only be approved by the Full Council after consideration of a proposal by the Monitoring Officer or on recommendation of the Cabinet.

##### 2.6.2 Minor Changes

If, in the reasonable opinion of the Monitoring Officer, a change is:

- (a) a minor variation; or
- (b) required to be made to remove any inconsistency, ambiguity or typographical correction; or
- (c) required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect. Such changes shall be reported to the next Full Council meeting for information.

##### 2.6.3 Legislative Change

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Full Council meeting for information.

#### 2.7 **Suspension of the Constitution**

##### 2.7.1 Limit to Suspension

Any of the procedure rules contained in the Constitution may be suspended to the extent permitted within these rules and the law.

##### 2.7.2 Procedure to Suspend

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration



of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Section.

2.8 **Publication**

- 2.8.1 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices and on the Council's website.
- 2.8.2 The Monitoring Officer will give a printed or (upon request) an electronic copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.
- 2.8.3 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with paragraph 2.6.

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**SECTION 3****3. GETTING INFORMATION AND GETTING INVOLVED****3.1 Getting Information****3.1.1 Information Available to Members of the Public****(a) When Meetings of the Member Bodies Will Take Place**

A programme of meetings is available by contacting the Council direct or via the website.

**(b) Forward Work Programme**

From the Forward Work Programme, see what decisions will be taken by the Cabinet or Council and what issues the Select Committees will be considering and when these matters will be discussed.

**(c) Information Available Prior to a Meeting**

**Five clear working days before a meeting**, the agenda, any report likely to be discussed and background papers to that report shall be available for inspection at the offices of the Council and on the website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item is added to the agenda and any report will be made available to the public as soon as it is available and sent to Councillors.

**(d) Information Available at a Meeting**

The Council will make available to the public present at a meeting a reasonable number of copies of the Agenda and of the Reports for the meeting (save during any part of the meeting to which the public are excluded).

**(e) Information Available After a Meeting**

For a period of six years the agenda, reports and the minutes of the meeting shall be available for inspection. The background papers shall remain open for inspection for a period of four years.

**(f) Council's Accounts**

Inspect the Council's accounts and make views known to the external auditor (sections 29 and 30 Public Audit (Wales) Act 2004). Under the Accounts and Audit (Wales) Regulations 2005, the accounts will be available for public inspection for twenty (20) working days after the date appointed by the auditor.

Information which is confidential or exempt (as defined in paragraphs 14.10.3 and 14.10.4 will not be disclosed to members of the public at any time.

**3.1.2 Information Available to Members of the Council****(a) Members can see any information, which is available to a member of the public.****(b) In addition, a Member may see any information which he or she needs to know in order to fulfil his or her role as a Member of the Council (otherwise known as "need to know"). A Member will not make public information which is confidential or exempt (as defined in Section 14) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or person(s) or organisation(s) entitled to know it.****3.1.3 Members of a Select Committee**

A Member of a Select Committee may also see any document containing material relating to:

- (a) any business transacted at or meeting of the Cabinet;
- (b) any decision taken by an individual Member of the Cabinet.

A Select Committee Member is not be entitled to:

- (c) any document in draft form;
- (d) any part of a document which contains confidential or exempt information unless that information is relevant to an action or decision they are reviewing or scrutinising or intending to scrutinise and is included in the Committee's Forward Work Programme.

NB. No Member is entitled to see any information relating to a matter in which he or she has a prejudicial interest.

#### 3.1.4 Information Available to Officers

The Monitoring Officer, the Section 151 Officer and the Head of Paid Service may see any papers or records held by any part of the Council or its Officers. Other Officers may see any information held by the Council provided:

- (a) they need to see the information to do their job; and
- (b) that information is processed lawfully in accordance with the Data Protection Act 1998.

### 3.2 **Getting Involved**

#### 3.2.1 Members of the Public

Members of the public can get involved in the following ways:

- (a) Voting for Councillors  
if they are over 18 years and registered as a local elector with the Council.

- (b) Suggesting Items of Business for Meetings

A member of the public can seek to get a matter included in an agenda by:

- (i) asking the Chair of any Member Body to add an item to the agenda; and/or
- (ii) attending a meeting of the body and suggest that it looks at an issue when it is considering "items of future business relating to the functions of the Member Body".

- (c) Taking Part in Meetings

- (i) Members of the public can come to and speak at any meeting which the Council has resolved should include participation by members of the public. The rules on when you may speak and for how long are contained in Section 4.

- (ii) You can also ask Formal Questions at meetings of Full Council (Section 4).

- (d) Views of the Public

Under the arrangements put in place by the Authority under section 62 of the Local Government (Wales) Measure 2011, to bring to the attention of the relevant Select Committees their views on any matter under consideration by the relevant Select Committee, the relevant Select Committee must take into account any views brought to their attention under these arrangements.

- (e) When are Meetings Open to the Public?

Meetings will be open to the public wherever possible. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed. (See section 14.10 for definition of exempt information and section 14.11 for definition of public interest.)

(f) Making Comments/Complaints

(i) A member of the public may comment or complain about Council services by:

- (A) contacting their local councillor;
- (B) contacting the Member of the Cabinet responsible for the service;
- (C) contacting the Officer responsible for delivering the service or their manager;
- (D) using the Council’s complaints procedure;
- (E) contacting the Public Services Ombudsman for Wales at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0845 601 0987 or via the website [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk).

(ii) Comments or complaints can be made about an Officer or Member by:

- (A) *Officer*  
contacting the Officer or the Officer’s manager.
- (B) *Members*  
If the complaint is against a Member then the complaint should be referred to the Monitoring Officer or the Public Services Ombudsman for Wales (contact details above).

(g) Engage with Overview and Scrutiny

All members of the public who live or work in the area of the Council may bring to the attention of a Select Committee their views on any matter under consideration by that Select Committee. Select Committees must take into account any views brought to its attention by a member of the public.

**3.3 Getting Involved – Members**

Members can get involved by:

**3.3.1 Suggesting Items of Business for the Agenda**

As a Member of the Council, you have the same rights as members of the public. In addition to these rights you also have the following rights:

- (a) Member bodies in Column A can request that Member bodies in Column B consider or reconsider an issue.

Column A	Column B
Democratic Services Committee	Council
Select Committees	Cabinet (Section 7.21, page 44) Cabinet (Section 7.25, page 46))

- (b) Any Member can submit a Notice of Motion to Council (Section 4) and also ask questions (Section 4).

3.3.2 Participating in Meetings

Members of the Council are entitled to attend any formal meeting of the Council, its committees or sub-committees or the Cabinet.

- (a) Members of the Council may attend and speak at any meetings where they are a Member of that body. Where they are not a Member of that body, their attendance and right to speak is at the discretion of the Chair of the body.
- (b) Members of the Cabinet have a special role to play within the Council. They are entitled to exercise any Executive Function provided the Executive Function has been delegated to them by the Leader of the Council.

3.3.3 Comments and Complaints

(a) Members may comment, subject to restrictions in the Code of Conduct for Members (Section 18) on any aspect of Council business by:

- (i) talking to Officers;
- (ii) talking to the Leader or Member of the Cabinet;
- (iii) talking to the Chair of a Select Committee.

(b) If a Member wishes to complain about an:

(c) Officer

The procedure set out in the Protocol on Member/Officer Relations may be used (Section 21).

(d) Member

The procedure set out in Appendix 3 to Section 18 may be followed.

**SECTION 4****4. FULL COUNCIL****4.1 Introduction**

The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). It is responsible for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself, but others will be delegated to Committees or named Officers.

**4.2 The Policy Framework**

The Policy Framework means the following plans and strategies:

Equalities Plan

Improvement Plan;

Young People's Partnership Strategic Plan;

Local Transport Plan;

Local Housing Strategy;

Plans and alterations which together comprise the Development Plan;

Welsh Language Scheme;

Youth Justice Plan.

Corporate Plan;

Policy agreements;

Asset Management Plan;

E-Government Strategy;

Report on Corporate Parent for Looked After Children

**Armed Forces Covenant**

**4.3 The Single Integrated Plan**

This replaces four of the existing plans and strategies which formed part of the Policy Framework, namely the Community Strategy, the Children and Young People's Plan, the Health, Social Care and Wellbeing Strategy and the Community Safety Partnership Plan.

**4.4 The Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. The Full Council will decide the Council's overall revenue budget and overall capital budget and any changes to these. (See Section 15 for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet.)

**4.5 Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the National Assembly for Wales for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985.

**4.6 Functions of the Full Council**

Only the Full Council will exercise the following functions:

4.6.1 adopting and changing the Constitution;

- 4.6.2 approving or adopting the Single Integrated Plan, Policy Framework, the budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
- 4.6.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Section 14 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget;
- 4.6.4 appointing and removing the Leader;
- 4.6.5 agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;
- 4.6.6 changing the name of the area or conferring the title of freedom of the County;
- 4.6.7 making or confirming the appointment of the Head of Paid Service and other Chief Officers;
- 4.6.8 making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Personal Bills;
- 4.6.9 all Local Choice Functions set out in Section 13 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- 4.6.10 all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee and the pay policy statement;
- 4.6.11 appointing representatives to outside bodies unless the appointment has been delegated by the Council or is exercisable only by the Cabinet.

4.7 **Membership**

- 4.7.1 All Members of the Council shall be Members of Full Council.
- 4.7.2 Substitution is not possible at meetings of the Council.
- 4.7.3 Chairing the Council
  - (a) The Councillor elected annually by the Council as its chair will be called the "Chair".
  - (b) The Chair will cease to be Chair if they resign, are dismissed by a vote of Full Council, cease to be a Member of the Council, or are unable to act as a Member of the Council. They continue to act as Chair after an election until their successor has been appointed.

**4.7.4 Role and Function of the Chair**

The Chair of the Council and in his/her absence, the Vice Chair will have the following roles and functions:

- (a) Ceremonial Role
  - The Chair of the Council:
    - (i) is the civic leader of Monmouthshire County Council;
    - (ii) promotes the interests and reputation of the Council and Monmouthshire County Council as a whole and acts as an ambassador for both; and
    - (iii) undertakes civic, community and ceremonial activities and fosters community identity and pride.
- (b) Responsibilities of the Chair

- (i) to uphold and promote the purpose of the Constitution, and to interpret the Constitution when necessary;
- (ii) to preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the Community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to hold the Cabinet and Committee Chair to account;
- (iv) to promote public involvement in the Council's activities;
- (v) to be the conscience of the Council; and
- (vi) to attend such civic and ceremonial functions as the Council and he/she determines appropriate;

#### 4.8 **Council Meetings**

There are three types of Council meeting:

- 4.8.1 the annual meeting;
- 4.8.2 ordinary meetings; and
- 4.8.3 extraordinary meetings

#### 4.9 **Rules of Procedure and Debate**

The Council Procedure Rules contained in the Sections below will apply to meetings of the Full Council.

#### 4.10 **Council Procedure Rules - Annual Meeting of the Council**

##### 4.10.1 Timing and Business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May. The annual meeting will:

- (a) elect a person to preside if the Chair and Vice Chair of the Council is not present;
- (b) elect the Chair of the Council;
- (c) elect the Vice Chair of the Council;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Chair and/or the Head of Paid Service;
- (f) elect the Leader of the Council, except where the Leader was appointed for a period of four years at the initial annual meeting of the Council;
- (g) be informed by the Leader of the number of Members to be appointed to the Cabinet;
- (h) appoint the Select Committees, a Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Section 13 of this Constitution);
- (i) receive from the Leader the scheme of delegations (as set out in Section 13 of this Constitution);
- (j) approve a programme of ordinary meetings of the Council for the year; and
- (k) consider any business set out in the notice convening the meeting.



## 4.10.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (a) decide which committees and sub-committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

4.11 **Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- 4.11.1 elect a person to preside if the Chair and Vice Chair are not present;
- 4.11.2 approve the minutes of the last meeting;
- 4.11.3 receive any declarations of interest from Members;
- 4.11.4 receive any announcements from the Chair;
- 4.11.5 receive a report from the Leader and receive questions and answers on the report;
- 4.11.6 receive a report from the Cabinet and receive questions and answers on the report;
- 4.11.7 receive reports from the Council's committees and receive questions and answers on those reports;
- 4.11.8 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.11.9 consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, Single Integrated Plan and reports of the Select Committees ;
- 4.11.10 consider motions; and
- 4.11.11 deal with questions from Members in accordance with Rule 4.19
- 4.11.12 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions.

4.12 **Extraordinary Meetings**

## 4.12.1 Calling Extraordinary Meetings

The Proper Officer and/or Monitoring Officer may call Council meetings in addition to ordinary meetings. Those listed below may request the Proper Officer to call additional Council meetings:

- (a) the Council by resolution;
- (b) the Chair of the Council;
- (c) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

## 4.12.2 Business

The business to be conducted at an extraordinary meeting shall be restricted to the item or items of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc, except that the Chair may at his/her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

#### **4.13 Time, Place and Duration of Meetings**

The time and place of meetings will be determined by the Proper Officer and notified in the summons.

#### **4.14 Notice of and Summons to Meetings**

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Section 14. At least **five** clear days before a meeting, the Proper Officer will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **4.15 Chair of Meeting**

**4.15.1** The person presiding at the meeting may exercise any power or duty of the Chair. Accordingly, if it appears appropriate, the Chair may, at his/her sole discretion waive compliance with the rules of debate set out in Rule 4.22 to facilitate the transaction of business at the meeting.

**4.15.2** Where these rules apply to committee and sub-committee meetings, references to the Chair should instead be read as reference to the chair of that committee or sub-committee.

**4.15.3** The decision of the Chair of the meeting on all points of procedure and order and the Chair's interpretation of any Procedure Rule shall be final and no debate may ensue thereon.

#### **4.16 Quorum**

The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **4.17 [Remote Attendance]**

**Welsh Government Guidance is awaited.**

#### **4.18 Questions by the Public**

##### **4.18.1 General**

- (a) Members of the public may ask questions of Members of the Cabinet at ordinary meetings of the Council.
- (b) The total time allocated for questions by the public should be limited to 15 minutes.

##### **4.18.2 Order of Questions**

Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.

##### **4.18.3 Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Democratic Services no later than midday **seven** working days before the day of the meeting. Each question must give the name and address of the questioner.

## 4.18.4 Number of Questions

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.

## 4.18.5 Scope of Questions

The Head of Democratic Services may reject a question if it:

- (a) is not about a matter for which the Council has a responsibility or which affects the County;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) requires the disclosure of confidential or exempt information.

## 4.18.6 Record of Questions

- (a) The Head of Democratic Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection.
- (b) Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

## 4.18.7 Asking the Question at the Meeting

The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

## 4.18.8 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds set out in Rule 4.18.5 above.

## 4.18.9 Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer.

## 4.18.10 Reference of Question to the Cabinet or a Committee

Unless the Chair decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

4.19 **Questions by Members**

## 4.19.1 On Reports of the Cabinet or Committees

A Member of the Council may ask the Leader or the Chair of a Committee any question without notice directly arising from an item of the report of the Cabinet or a Committee, when that item is being received or is under consideration by the Council

## 4.19.2 Questions on Notice at Full Council

Subject to Rule 4.19.4, a Member of the Council may ask:

- (a) the Chair;
- (b) a Member of the Cabinet;
- (c) the chair of any committee or sub-committee;

a question on any matter in relation to which the Council has powers or duties or which affects the County Council.

#### 4.19.3 Questions on Notice at Committees and Sub-Committees

Subject to Rule 4.19.4, a Member of a committee or sub-committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affects the County and which falls within the terms of reference of that committee or sub-committee.

#### 4.19.4 Notice of Questions

A Member may ask a question under Rule 4.19.2 or 4.19.3 if either:

- (a) they have given at least **seven** working days' notice in writing of the question to the Head of Democratic Services; or
- (b) the question relates to urgent matters, they have the consent of the Chair or Member to whom the question is to be put and the content of the question is given to the Head of Democratic Services at least two hours before the meeting.

#### 4.19.5 Order of Questions

Questions of which notice has been given under Rule 4.19.2 or 4.19.3 will be listed on the agenda in the order determined by the Chair of the Council, committee or sub-committee.

#### 4.19.6 Content of Questions

Questions under Rule 4.19.2 or 4.19.3 must, in the opinion of the Chair:

- (a) contain no expressions of opinion;
- (b) relate to matters on which the Council has or may determine a policy;
- (c) not relate to questions of fact.

#### 4.19.7 Response

An answer may take the form of:

- (a) a direct oral answer at the meeting;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication;
- (c) Where the reply cannot conveniently be given orally, a written answer circulated within five working days to the questioner.

#### 4.19.8 Supplementary Question

A Member asking a question under Rule 4.19.2 or 4.19.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

#### 4.19.9 Length of Speeches

A Member asking a question under Rule 4.19.2 or 4.19.3 **shall not speak other than in exercise of their right to ask a supplementary question** under Rule 4.19.9 and a Member answering such a question may speak for no longer than three minutes unless the Chair consents to a longer period.

### 4.20 **Motions on Notice**

#### 4.20.1 Notice

Except for motions which can be moved without notice under Rule 4.21 and in cases of urgency, written notice of every motion, must be delivered to the Head of Democratic Services not later than midnight on the sixth working day before the Council meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

4.20.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.

4.20.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the wellbeing of the administrative area of the Council.

4.20.4 Motion to Remove the Leader

- (a) A motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of councillors which is at least equivalent to 15% of the total number of councillors on the Council and which includes councillors from at least two political groups. See Section 6.3.2.
- (b) In order for such a motion to be carried it must have the support of at least two thirds of those Members voting and present in the room at the time the question was put.
- (c) A motion to remove the Leader cannot be moved more than once in any rolling 12 month period.

4.20.5 ??? Motion per Member

No Member may give notice of more than ??? motions for any Council meeting, except with the consent of the Chair.

4.20.6 Time Allowed for Motions

Deleted

4.21 **Motions without Notice**

The following motions may be moved without notice:

- 4.21.1 to appoint a Chair of the meeting at which the motion is moved;
- 4.21.2 in relation to the accuracy of the minutes;
- 4.21.3 to change the order of business in the agenda;
- 4.21.4 to refer something to an appropriate body or individual;
- 4.21.5 to appoint a committee or Member arising from an item on the summons for the meeting;
- 4.21.6 to receive reports or adoption of recommendations of committees or Officers and any resolutions following from them;
- 4.21.7 to withdraw a motion;
- 4.21.8 to amend a motion;
- 4.21.9 to proceed to the next business;
- 4.21.10 that the question be now put;
- 4.21.11 to adjourn a debate;
- 4.21.12 to adjourn a meeting;
- 4.21.13 to suspend a particular Council Procedure Rule;
- 4.21.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;

- 4.21.15 to not hear further a Member named under Rule 4.30.2 or to exclude them from the meeting under Rule 4.30.3; and
- 4.21.16 to give the consent of the Council where its consent is required by this Constitution.

**4.22 Rules of Debate**

**4.22.1 No Speeches until Motion Seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

**4.22.2 Right to Require Motion in Writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him before it is discussed.

**4.22.3 Secunder's Speech**

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

**4.22.4 Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order no speech may exceed ten minutes without the consent of the Chair.

**4.22.5 When a Member may Speak Again**

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since he last spoke;
- (c) if his first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

**4.22.6 Amendments to Motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words

as long as the effect of 4.22.6(a)(ii) to 4.22.6(a)(iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

4.22.7 Alteration of Motion

- (a) A Member may alter a motion of which he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

4.22.8 Withdrawal of Motion

A Member may withdraw a motion which he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

4.22.9 Right of Reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his amendment.

4.22.10 Motions which may be Moved During Debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (h) to not hear further a Member named under Rule 4.30.2 or to exclude them from the meeting under Rule 4.30.3.

4.22.11 Closure Motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member;
  - (i) to proceed to the next business;
  - (ii) to act that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 4.22.12 Point of Order

A point of order is a request from a Member to the Chair to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chair on the matter will be final.

#### 4.22.13 Personal Explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

### 4.23 **State of the County Debate**

#### 4.23.1 Calling of Debate

The Leader may call a state of the County debate annually on a date and in a form to be agreed with the Chair.

#### 4.23.2 Form of Debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the debate.

#### 4.23.3 Chairing of Debate

The debate will be chaired by the Chair.

#### 4.23.4 Results of Debate

The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area which work in active partnership with the Council and considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

### 4.24 **Previous Decisions and Motions**

#### 4.24.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless moved on the recommendation of a Committee or the Cabinet or the notice of motion is signed by at least eleven Members, except in the case of new information becoming available.

#### 4.24.2 Motion Similar to One Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless moved on the recommendation of a Committee or the Cabinet or the notice of motion is signed by at least eleven Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.



#### 4.25 **Voting**

##### 4.25.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

##### 4.25.2 Chair's Casting Vote

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

##### 4.25.3 Method of Voting

Unless a recorded vote is demanded under Rule 4.25.4 the Chair will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.

##### 4.25.4 Recorded Vote

If nine Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

##### 4.25.5 Right to Require Individual Vote to be Recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

##### 4.25.6 Voting on Appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

#### 4.26 **Minutes**

##### 4.26.1 Signing the Minutes

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

##### 4.26.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

##### 4.26.3 Form of Minutes

Minutes will contain all motions and amendments in the form and order the Chair put them.

#### 4.27 **Record of Attendance**

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

#### 4.28 **Presentation of Petitions**

##### 4.28.1 At a meeting of the Council any member of the Council may present a

petition, signed by person other than members of the Council, which is relevant to some matter in relation to which the Council or Cabinet have functions, or which affects the area of the Council, or part of it, or the inhabitants of that area, or some of them. The member presenting the petition shall satisfy himself that the petition is proper to be received.

- 4.28.2 A member wishing to present a petition shall give notice of his intention to do so to the Chief Executive before the beginning of the meeting at which he wishes to present it.
- 4.28.3 The presentation of a petition shall be limited to not more than three minutes, and shall be confined to reading out, or summarising, the prayer of the petition, indicating the number and description of the signatories.
- 4.28.4 Petitions shall be presented in the order in which notice of them is received by the Chief Executive.
- 4.28.5 A petition presented at a meeting of the Council shall stand referred to a future meeting of the Cabinet or relevant committee, in order that the appropriate chief officer may present a report on the subject matter of the petition.

#### 4.29 **Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution or Rule 4.31 (Disturbance by Public).

#### 4.30 **Members' Conduct**

##### 4.30.1 Speaking at Meetings

When a Member speaks at Full Council he/she must stand and address the meeting through the Chair. If more than one Member signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation. Chair Speaking

When the Chair speaks during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

##### 4.30.2 Member not to be Heard Further

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

##### 4.30.3 Member to Leave the Meeting

If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

##### 4.30.4 General Disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he thinks necessary.

#### 4.31 **Disturbance by Public**

##### 4.31.1 Removal of Member of the Public

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

##### 4.31.2 Clearance of Part of Meeting Room

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

#### **4.32 Filming and Use of Social Media During Meetings**

Filming and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting.

#### **4.33 Suspension and Amendment of Council Procedure Rules**

##### 4.33.1 Suspension

All of these Council Rules of Procedure except Rule 4.20.5, 4.25.5 and 4.26.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting. Rule 4.20.5 can only be suspended by motion on notice and the motion must have the support of at least two thirds of those Members present and voting.

##### 4.33.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

#### **4.34 Application to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of Full Council. None of the rules apply to meetings of the Cabinet. Only Rules 4.13 to 4.16, 4.19 to 4.22, 4.24 to 4.34 (but not Rule 4.30.1) apply to meetings of committees and sub-committees.

#### **4.35 Appointment of Substitute Members on Council Bodies**

4.35.1 The substitution rules will not apply to meetings of the Cabinet, the Standards Committee or the Audit Committee.

4.35.2 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.

4.35.3 The Head of Democratic Services will allow a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group and the request is received no later than one hour before the meeting.

4.35.3 In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law.

4.35.4 Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

4.35.5 Substitute Members may attend meetings in that capacity only:

- (a) to take the place of the ordinary Member for whom they are designated substitute;
- (b) where the ordinary Member will be absent for the whole of the meeting; and
- (c) where the ordinary Member or that Member's political group has notified the Head of Democratic Services of the intended substitution at least one hour before the start of the relevant meeting.

#### **4.36 Family Absence**

Needs to be added here.

**SECTION 5****6. THE CABINET****5.1 Introduction**

The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution.

**5.2 Form and Composition of the Cabinet**

The Cabinet will consist of:

- 5.2.1 the Leader of the Council (the "Leader"); and
- 5.2.2 at least two but not more than nine other Councillors appointed to the Cabinet by the Leader.

**5.3 Leader****5.3.1 Election**

The Leader will be a Councillor elected to the position of Leader by the Council.

**5.3.2 Term of Office**

The Leader is appointed on an annual basis at the annual meeting of the Council.

**5.3.3 Role of the Leader**

The Leader will Chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet. Further information is contained in Section 6.

**5.4 Deputy Leader**

5.4.1 The Leader will appoint **up to two Deputy Leaders**, one of whom to act as Leader in the Leader's absence, and may also if he/she thinks fit remove the Deputy Leaders from Office at any time.

5.4.2 **The Deputy Leader appointed by the Leader for the purpose** may exercise all of the functions of the Leader where the position is vacant or where the Leader is absent or otherwise unable to act.

**5.5 Other Cabinet Members**

Other Cabinet Members will be Councillors elected to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:

- 5.5.1 he/she resigns from that office; or
- 5.5.2 he/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or
- 5.5.3 he/she ceases to be a Councillor.

The Leader may at any time appoint a Cabinet Member to fill any vacancies.

**5.6 Delegation of Functions**

The Leader may exercise Executive Functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge. The Leader may delegate Executive Functions to:

- 5.6.1 the Cabinet as a whole;
- 5.6.2 a Committee of the Cabinet (comprising executive Members only);
- 5.6.3 an individual Cabinet Member;
- 5.6.4 a joint committee;
- 5.6.5 Another local authority or the executive of another local authority;
- 5.6.6 A delegated Officer.

## 5.7 **Rules of Procedure and Debate**

The proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules in Section 5.8.1 below.

## 5.8 **Cabinet Procedure Rules**

### 5.8.1 How does the Cabinet Operate?

#### (a) Delegation by the Leader

Following the annual meeting of the Council, **the Monitoring Officer**, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Section 13 to this Constitution. This will contain the following information about Executive Functions in relation to the coming year:

- (i) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (ii) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
- (iii) the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements;
- (iv) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made; and

#### **(b) Sub-Delegation of Executive Functions**

- (i) Where the Cabinet, a committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive Function, they may delegate further to joint arrangements or an Officer.
- (ii) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- (iii) Where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### (c) The Council's Scheme of Delegation and Executive Functions

- (i) The Leader may amend the scheme of delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (ii) Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when he has served it on its chair.

#### (d) Conflicts of Interest

- (i) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members. If any Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 17 of this Constitution.

- (ii) If the exercise of an Executive Function has been delegated to a committee of the Cabinet, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members.

(e) Cabinet Meetings – When and Where?

The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's main offices or another location to be agreed by the Leader.

(f) Public or Private Meetings of the Cabinet?

The Cabinet will hold its meetings in public, except in the circumstances set out in the Access to Information Procedure Rules in Section 14, for example where confidential or exempt information is being discussed.

(g) Quorum

- (i) The quorum for a meeting of the Cabinet shall be three including the Leader or Deputy Leader.
- (ii) The quorum for a meeting of a committee of the Cabinet shall be a quarter of the number of members of the committee.

**(h) [Remote Attendance awaiting WG Guidance]**

(i) How are Decisions to be taken by the Cabinet?

- (i) Executive Decisions made by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution.
- (ii) Where Executive Decisions are delegated to a committee of the Cabinet, the rules applying to Executive Decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

**5.9 How are Cabinet Meeting Conducted?**

5.9.1 Who Presides?

The Leader will preside at any meeting of the Cabinet or its committees at which he is present. In his absence, the Deputy Leader will preside. In his/her absence, then a person appointed to do so by those present shall preside.

5.9.2 Who May Attend?

These details are set out in the Access to Information Procedure Rules in Section 14 of this Constitution. See also Section 3 in relation to Member participation in meetings.

5.9.3 What Business?

At each meeting of the Cabinet the following business will be conducted:

- (a) declarations of interest, if any;
- (b) matters referred to the Cabinet (whether by Select Committees or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Sections 7 and 15 of this Constitution;
- (c) consideration of reports from Select Committees;
- (d) consideration of reports from Cabinet Committees;

(e) reports from Officers of the Authority.

5.9.4 Consultation

All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders and with the Select Committees and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

5.9.5 Who can put Items on the Cabinet Agenda?

- (a) The Leader will decide upon the schedule for meetings of the Cabinet. He/she may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any Member or Officer in respect of that matter.
- (b) Any Member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- (c) The Head of Paid Service, the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- (d) In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be considered at which the matter will be considered.

5.10 **Disturbance by the Public, Filming and Use of Social Media**

5.10.1 The provisions in Council Procedure Rules in Section 4.31 in relation to disturbance by the public apply to meetings of the Cabinet.

5.10.2 The provisions in Council Procedure Rules in Section 4.32 relating to filming and use of social media apply to meetings of the Cabinet.

**SECTION 6****6. THE LEADER****6.1 Election**

6.1.1 The Leader will be elected by Full Council.

6.1.2 The Leader will usually be elected **on an annual basis** at the Annual Council meeting. However, where the post of Leader becomes vacant between Council elections the Leader will be elected at the next meeting of the Full Council.

**6.2 Term of Office**

The Leader is appointed on an annual basis at the annual meeting of the Council.

**6.3 Resignation, Dismissal, Disqualification and Suspension**

6.3.1 The Leader may resign the position of Leader by writing to the Chair.

6.3.2 The Leader can be dismissed where the Council passes a resolution removing him/her from office in accordance with the Rules below.

6.3.3 The Leader shall cease to be Leader if he/she is suspended or disqualified as a Councillor, or, for other such reasons cannot fulfil the role of Leader.

6.3.4 The Leader will cease to be Leader upon death or upon suffering any disability which will, or is likely to, prevent them from undertaking the role of Leader for a period of three months or more.

**6.4 Deputy Leader**

6.4.1 Appointment

The Leader may designate **up to two** Members of the Cabinet as Deputy Leader.

6.4.2 Duties of the Deputy Leader

The Deputy Leader **appointed by the Leader for the purpose** may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

6.4.3 Removal from Office

The Leader may, if he/she thinks fit, remove a Deputy Leader from office at any time.

**6.5 Functions and Delegated Authority**

6.5.1 Membership of the Cabinet

The Leader appoints and dismisses the Members of the Cabinet subject only to there being a minimum of two, and a maximum of nine, Members of the Cabinet (not counting the Leader) at any time (Section 5.2, page 34).

6.5.2 Role of the Leader

The Leader will chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet.

6.5.3 The Cabinet Scheme of Delegations

The Leader will prepare and submit for approval a Cabinet Scheme of Delegations setting out the delegations of Executive Functions, including, where the principle has been approved as part of the Council's Executive Arrangements the delegated authority of each Member of the Cabinet, and thereafter keep this under review and submit updates to the Scheme as appropriate. In addition, the Leader has powers under s.15(4) of the Local Government Act 2000 to discharge personally or to arrange for discharge under others' delegated powers any Executive functions not covered by the Scheme of Delegations for the time being.



(NB: no Member of the Cabinet may have a Deputy, other than the Leader. This means that no Member of the Cabinet can have responsibilities which mean that they will work to, or under, another Member of the Cabinet, except the Leader).

**6.5.4 Meetings of the Cabinet**

Subject to the requirement to publish notice of each meeting three clear days before it takes place, and other conditions contained in Section 3.1, page 17, the Leader can call meetings of the Cabinet at such times and places as he/she chooses (NB: the Head of Paid Service, the Section 151 Officer, and the Monitoring Officer can all, should the need arise, call meetings of the Cabinet as well).

**6.5.5 Chairing Cabinet Meetings**

The Leader shall chair Cabinet meetings. In the Leader's absence a Deputy Leader will chair. If no Deputy Leader is available the Cabinet will appoint a Member of the Cabinet to Chair the meeting on their behalf by informing the Proper Officer of the person chosen (subject to quorum).

**6.5.6 Appointments of Representatives on Outside Bodies**

The Leader has authority to appoint representatives of the Council on outside bodies where those outside bodies relate to Executive Functions of the Council.

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**SECTION 7****7. SELECT COMMITTEES****7.1 Introduction**

7.1.1 The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Select Committees should be powerful committees that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.

7.1.2 Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Select Committees should not shy away from the need to challenge and question decisions and make constructive criticism.

**7.2 Select Committees**

In order to achieve this, the Council have appointed Four Select Committees which between them will:

7.2.1 review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council;

7.2.2 make reports or recommendations to the Council or the Cabinet in connection with the discharge of any functions;

7.2.3 consider any matter which affects the Council's area or its inhabitants; and

7.2.4 exercise the right to call in for reconsideration decisions made but not yet implemented by the Cabinet and Officers.

**7.3 Role, Scope and Membership**

The role, scope and Membership of the Select Committees are described in the table below:

<b>Committee and Membership</b>	<b>Role and Scope</b>
Adult Select - 9 members, up to 5 co-opted members	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of adults
Children and Young People Select - 9 members, up to 5 co-opted members	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of children and young people
Economy and Development Select – 9 members, up to 5 co-opted members	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of economy and development
Strong Communities Select – 9 members, up to 5 co-opted members	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of strong communities including crime and disorder.

## 7.4 Specific Functions

### 7.4.1 Policy Development and Review

The Select Committees may:

- (a) assist the Council and the Cabinet in the development of its Budget and Policy Framework by in depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) question Members of the Cabinet and/or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area;
- (d) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working; and
- (e) consider the impact of policies to assess if they have made a difference.

### 7.4.2 Scrutiny

The Select Committees may:

- (a) review and scrutinise the decisions by and performance of the Cabinet and/or Committees and Council Officers in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question Members of the Cabinet and/or Committees and Chief Officers from the Council about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or project;
- (d) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Select Committees and local people about their activities and performance; and
- (f) question and gather evidence from any person (with their consent).

### 7.4.3 Crime and Disorder Functions and the Strong Communities Select Committee

This Committee:

- (a) may review and scrutinise decisions made or other actions taken in connection with the discharge of crime and disorder functions by Responsible Authorities under Sections 5 & 6 of the Crime & Disorder Act 1998. The Committee may make reports or recommendations to full Council or the Cabinet with respect to the discharge of crime and disorder functions, in which case it must provide a copy to each of the Responsible Authorities and those co-operating persons and bodies referred to in the Police & Justice Act 2006.
- (b) must consider any local crime and disorder matter (as defined by Section 19 of the Police & Justice Act 2006 (included on the agenda for the meeting where the matter has been referred to the Committee by a member of the Council). It must consider whether to make a report or recommendations to full Council and/or the Cabinet with respect to that local crime and disorder matter, having regard to any representations made by the member concerned. If the Committee decides not to make a report or recommendations it must notify the member concerned of its decision and the reasons for it. If the Committee does make a report or

recommendations to full Council and/or Cabinet then it must provide a copy of the report or recommendations to the member concerned and such of the Responsible Authorities and co-operating persons or bodies, as it thinks appropriate.

- (c) Whenever it provides a copy of the report or recommendations to a Responsible Authority or a co-operating person or body, must remind that authority/body of its statutory duty to have regard to the report or recommendations in exercising its functions, to consider the report or recommendations and to respond to the Committee indicating what (if any) actions that person or body proposes to take.

#### **7.4.4 Annual Report**

The Select Committees must report annually to the Full Council on their workings with recommendations for their future work programme and amended working methods if appropriate.

#### **7.5 Head of Democratic Services**

One of the roles of the Head of Democratic Services under section 8 of The Measure is to promote the role of the Council's Select Committees and to promote support and guidance to Council Members and Officers generally about the functions of the Select Committees .

#### **7.6 Who May Sit on Select Committees?**

All Councillors except Members of the Cabinet may be Members of the Select Committees. However, no Member may be involved in scrutinising on decisions in which he has been directly involved.

#### **7.7 Co-Optees**

Each Select Committee shall be entitled to recommend to Council the appointment of a maximum of **five** people as non-voting co-optees. In exercising or deciding whether to exercise a co-option, the Authority must, under section 76 of The Measure, have regard to guidance given by the Welsh Ministers and comply with directions given by them.

#### **7.8 Education Representatives**

The Children and Young People Select Committee shall include in its Membership voting representatives of religious faiths and of parent governors, as required by law and guidance from the National Assembly for Wales.

#### **Crime and Disorder Representatives**

In discharging its crime and disorder functions, the Strong Communities Select Committee may co-opt officers, employees or members of Responsible Authorities or Co-operating Persons or Bodies (as defined by section 5 of the Crime and Disorder Act 1998.) Co-optees cannot be members of the Council's Executive and no co-optee is entitled to vote, unless the Committee allows it. Co-optees may be appointed for a particular matter or type of matter and membership may be withdrawn at any time by the Committee

#### **7.9 Who Chairs?**

The arrangements included in sections 66-75 of the Local Government (Wales) Measure 2011 will be followed for appointing persons to chair Select Committees .

#### **7.10 Role of the Chair and the Select Committees**

7.10.1 The role of the Chair of the Select Committees will be essential in implementing the new method of working. The Chairs will liaise with the Cabinet and supervise the Work Programme and identify cross cutting themes arising from the various Select Committees .

7.10.2 In summary, therefore, the Chair will:

- (a) be accountable for delivering the new way of working for scrutiny;
- (b) will meet regularly to monitor Work Programmes;

- (c) will liaise with the Cabinet on issues affecting the Scrutiny Work Programme; and
- (d) report to meetings of the Co-ordinating Board on progress in implementing the new methods of working.

#### 7.11 **Work Programme**

The Select Committees will be responsible for setting their own Work Programme and in doing so they should take into account wishes of Members who are not Members of the largest political group on the Council. It may also consider urgent and unforeseen matters not included in the Work Programme.

#### 7.12 **Meetings**

7.12.1 The Select Committees will have **8** meetings a year.

7.12.2 Extraordinary meetings may be called from time to time in order to deal with call-ins (Section 7.25) where the Chair of a Select Committee and the Chair of Council agree it is necessary for that Select Committee to consider the called in decision before the Select Committee's next programmed meeting.

7.12.3 The quorum of a Select Committee will be 3 Members.

#### 7.13 **Joint Select Committees**

Under section 58 of The Measure, regulations may be made to permit two or more local authorities to appoint a joint Select Committee. This is set out in the Local Authority (Joint Overview and Scrutiny) (Wales) Regulations 2012.

#### 7.14 **Rules of Procedure and Debate**

The Overview and Scrutiny Procedure Rules will apply to meetings of the Select Committees .

#### 7.15 **What will be the Number and Arrangements for Select Committees?**

7.15.1 The Council will have Four Select Committees set out in the table in Section 7.3 and will appoint to them as it considers appropriate from time to time. The Select Committees may appoint smaller groups to carry out detailed examination of particular topics for report back to them. Such groups may be appointed for a fixed period on the expiry of which they shall cease to exist.

7.15.2 The terms of reference of the various Select Committees will be to:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions; (except any matters specifically identified in the terms of reference of any other select committee)
- (b) make reports and/or recommendations to the full Council and/or the executive and/or any joint or area committee in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants;
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or any area committees; and
- (e) convene joint meetings with overview and scrutiny committees of other councils.
- (f) assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Assembly Government and Assembly Sponsored Public Bodies on the effectiveness of Council service delivery.

#### **Specific functions**

#### **Policy development and review**

Select committees may:

- (g) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (h) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (i) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (j) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area; and
- (k) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

### **Scrutiny**

Select committees may:

- (l) review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;
- (m) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (n) question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (o) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (p) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the select committee and local people about their activities and performance; and
- (q) question and gather evidence from any person (with their consent).

### **Finance**

Select committees may exercise overall responsibility for the finances made available to them.

### **Report**

From time to time, as appropriate, the Chairman of each Select committee will report to full Council on the workings of the committee including future work programmes.

### **Officers**

Select committees may exercise overall responsibility for the work programme of the officers employed to support their work.

7.15.3 Each Select Committee will be Chaired by a Chair appointed from the membership of that Select Committees :

- (a) there will be cross party Membership of all Select Committees;
- (b) the Select Committees shall undertake the following:
  - (i) investigate or review a particular matter in depth and without delay, reporting their conclusions and making any recommendations to the Council or Cabinet as appropriate;
  - (ii) conduct research, community (and other) consultation for the purposes of analysing issues and developing where appropriate;

possible options, through liaison with the area/community partnerships;

- (iii) consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options;
- (iv) question Cabinet Members and Officers about their views and actions on issues and proposals affecting the County;
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- (vi) question and gather evidence from any person (with his/her consent) whilst conducting investigative and reporting processes.

#### 7.16 **Meetings of the Select Committees**

The Council may determine a cycle of meetings for the Select Committees. If the Council do not set the cycle, each such Select Committee shall determine their own cycle of meetings. The Chair, or in their absence the Vice Chair, may change the date or cancel meetings, or call additional meetings as they consider necessary to deal with the Select Committee's work programme. A meeting of a Select Committee may be called by the Chair (or in his or her absence, the Vice Chair) or by the Monitoring Officer or by the Head of Democratic Services, if he or she considers it necessary or appropriate.

#### 7.17 **Quorum**

The quorum for a Select Committee shall be as set out in the Council Procedure Rules in Section 4 of this Constitution.

#### 7.18 **Agenda Items**

7.18.1 Any Member of a particular Select Committee shall be entitled to give notice to the Proper Officer that he wishes an item relevant to the functions of the that Select Committees to be included on the agenda for the next available meeting. **Seven** working days' notice of the item should be given to Proper Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item.

7.18.2 On receipt of such a request, so long as it is an appropriate matter to be considered, the Proper Officer will ensure that it is included on the next available agenda.

7.18.3 Select Committees shall also respond, as soon as their work programme permits, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the particular Select Committees shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Select Committees within one month of receiving it.

#### 7.19 **Policy Review and Development**

7.19.1 The role of the Select Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in Section 15.

7.19.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, Select Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

7.19.3 Select Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They

may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### 7.20 **Reports from the Select Committees**

- 7.20.1 All formal reports from the Select Committees will be submitted to the Proper Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 7.20.2 If a Select Committee cannot agree on one single final report to the Council or Cabinet as appropriate, one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- 7.20.3 The Council or Cabinet shall consider the report of a Select Committee within one month of it being submitted to the Proper Officer.

#### 7.21 **Making sure that Overview and Scrutiny Reports are considered by the Cabinet**

- 7.21.1 The agenda for Cabinet meetings shall include an item entitled "Issues Arising from Overview and Scrutiny". The reports of the Select Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the Cabinet within two months, the Cabinet will give an explanation of the reasons to the Chair of the relevant Select Committee as soon as practicable.
- 7.21.2 Where the Cabinet has delegated decision making power to another individual Member of the Cabinet, the relevant Select Committee will submit a copy of its report to him or her for consideration. At the time of doing so the Select Committee shall serve a copy on the Head of Legal Services. The Member with delegated decision making power must consider the report and respond in writing to the Select Committee within **four weeks** of receiving it. A copy of his written response to it shall be sent to the Proper Officer and the Leader. The Member will also attend a future meeting of that Select Committee to present their response.

#### 7.22 **Rights of Members of the Select Committees to Documents**

- 7.22.1 In addition to their rights as Councillors, Members of the Select Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Section 14 of this Constitution.
- 7.22.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Select Committee as appropriate depending on the particular matter under consideration.

#### 7.23 **Members and Officers Giving Account**

- 7.23.1 The Select Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the Cabinet, the Chief Executive and/or any senior Officer to attend before it to explain in relation to matters within their remit:
- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy; and/or
  - (c) their performance
- and it is the duty of those persons to attend if so required.
- 7.23.2 For this purpose, senior Officer includes any chief Officer, deputy chief Officer and other appropriate senior Officer. Where there are concerns about the appropriateness of the Officer who should attend, the relevant chief Officer



shall discuss this with the appropriate Overview and Scrutiny Chair or Vice Chair with a view to achieving consensus.

- 7.23.3 Where any Member or Officer is required to attend a Select Committee under this provision, the Chair of that Committee will inform the Proper Officer. The Proper Officer shall inform the Member or Officer, if necessary in writing, giving at least 10 working days' notice of the meeting at which he or she is required to attend (unless agreed otherwise). Any notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee.
- 7.23.4 Where the account to be given to a Select Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 7.23.5 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Select Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

#### 7.24 **Attendance by Others**

Select Committees may invite people other than those people referred to in paragraph 7.23 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

#### 7.25 **Call-In**

##### 7.25.1 Rules

- (a) Where a decision is made by the Cabinet an individual Member of the Cabinet or a Committee of the Cabinet or under joint arrangements, the decision shall be published by the Proper Officer, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 clear working days of it being made. All Members of the Select Committees will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless a Select Committee objects to it and calls it in for review.
- (c) During that period the Proper Officer shall call-in a decision for scrutiny by a Select Committee if so requested in the specified format **by three Members of the Council** and, shall then notify the decision taker of the call-in. He/she shall call a meeting of that Select Committees on such a date as he/she may determine, where possible after consultation with the Chair or Vice Chair of that Select Committees, and in any case within 15 clear working days of the decision to call-in (only in exceptional circumstances will the Chair of the Select Committee consider extending this time limit).
- (d) If, having considered the decision, the Select Committee is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision maker they shall then reconsider within a further 10 clear working days, amending the decision or not, before adopting a final decision. If referred to full Council, the Proper Officer will convene a meeting of the Council within 15 clear working days.
- (e) If following an objection to the decision, a Select Committee does not meet within the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect

on the date of the Select Committee' meeting, or the expiry of that further 15 clear working day period, whichever is the earlier.

- (f) If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decisions to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole, or a Committee of it, a meeting will be convened to reconsider within **ten** working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within **ten** working days of the Council's request.
- (g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is earlier.
- (h) No Education Co-opted Members may report a decision be called in.
- (i) The Monitoring Officer may veto any request for call-in if it falls outside the remit of this scheme.
- (j) **Save in exceptional circumstances all Members requesting a matter be called in must attend the meeting at which the matter is being considered.**

#### 7.25.2 Call-In and Urgency

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or other public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. **The Chair** must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair the Deputy Chair's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent should be required. Decisions taken as a matter of urgency must be reported at the next available meeting of the Council, together with the reasons for urgency.
- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

#### 7.26 **The Party Whip**

If a Member of a Select Committee is subject to a party whip in respect of an issue to be considered by it, that Member must declare the existence of the whip and the nature of it before the commencement of deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

#### 7.27 **Procedure at Select Committee Meetings**

7.27.1 Select Committees shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest;
- (c) consideration of any matter referred to that Select Committee for a decision in relation to call in of a decision;

- (d) responses of the Cabinet to reports of that Select Committee;
- (e) the business otherwise set out on the agenda for the meeting.

The Rules of Procedure at a Select Committee will be the same as the Council procedure Rules except that the Chair of the meeting may allow the rules of debate to be relaxed to enable a full contribution by those attending the meeting whether as Members of a Select Committee or in any other capacity which allows them to contribute to the worth of the meeting.

7.27.2 Select Committees may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:

- (a) that the business be conducted fairly and all Members of the Select Committees be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting by giving evidence be treated with respect and courtesy;
- (c) that the business be conducted as efficiently as possible.

7.27.3 Following any investigation or review, a Select Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

7.28 **Matters within the Remit of more than one Select Committees**

Where a matter for consideration by a Select Committee also falls within the remit of one or more other Select Committee, the decision as to which Select Committees will consider it will be resolved by the respective Chairs or, if they fail to agree, the decision will be made by the Co-ordinating Board.

7.29 **Councillor Call for Action**

7.29.1 The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council via the Scrutiny process. It should be an option of "last resort".

7.29.2 Any Member may request that an item is placed on the agenda of an Select Committees for consideration.

7.29.3 The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors attached to these Rules at Appendix 1.

## Appendix 1 to Section 7

### Councillor Call for Action - Guidance for Councillors

#### 1. INTRODUCTION

- 1.1 The Local Government Wales Measure 2011 introduced a number of new provisions aimed at strengthening local democracy. Section 63 of the Measure introduced a provision for “Councillor Calls for Action” (CCfA) which enables Councillors to refer issues of local importance to Select Committees .
- 1.2 CCfAs are intended to enable local Councillors and their electors to obtain a response from their Council Leadership on issues of local importance. CCfAs should be regarded as one of a series of tools which elected Members have at their disposal to resolve local issues and make a positive difference in their community. Previously in Wales, only local Crime and Disorder issues could be referred by the local Member to the designated Crime and Disorder Select Committee for action and it should be noted that these local crime and disorder referrals will remain in place under separate legislation.
- 1.3 As part of their community leadership role, councillors have always attempted to resolve issues on behalf of their local residents and CCfAs provide an additional avenue for councillors to follow if the normal ways of resolving an issue have not been successful and the issue meets the criteria for a referral. It should be noted that a referral under this process should be seen as a last resort after all other avenues have been exhausted.
- 1.4 CCfAs have been introduced alongside other powers for scrutiny, including powers to scrutinise a wide range of bodies not previously subject to local authority scrutiny. CCfAs are intended to enable any Member for the Council to refer to a Select Committee, “a local government matter” which falls within the Select Committees remit.

#### 2. HOW SHOULD I NORMALLY ATTEMPT TO RESOLVE A LOCAL ISSUE IN MY AREA?

- 2.1 Local issues can be resolved in a number of ways by councillors on behalf of their residents as listed in the Welsh Government’s Statutory Guidance from the Local Government Measure 2011:
  - 2.1.1 informal discussions with Officers or other councillors;
  - 2.1.2 informal discussions with partner representatives;
  - 2.1.3 referral to other “scrutiny” bodies such as Community Health Councils or internal audit committee;
  - 2.1.4 formal discussions with Officers and councillors;
  - 2.1.5 formal letters to the Cabinet Members;
  - 2.1.6 asking questions at Full Council;
  - 2.1.7 submitting a motion to Full Council;
  - 2.1.8 organising public meetings;
  - 2.1.9 use of petitions;
  - 2.1.10 making a complaint;
  - 2.1.11 questions at Full Council
  - 2.1.12 freedom of information requests;
  - 2.1.13 communication with local AMs or MPs;
  - 2.1.14 use of social media or email based campaigns.
- 2.2 This is not an exhaustive list and councillors may choose different routes for specific issues. If an issue has not been resolved after exhausting all possible alternative routes, then a local councillor can refer it to the appropriate Select Committees .

### 3. **WHAT IS A COUNCILLOR CALL FOR ACTION**

- 3.1 In order for the Select Committees to accept a CCfA as an agenda item for discussion at one of their meetings, the issue must affect either all or part of a councillor's electoral area or it must affect someone who lives or works in that area.
- 3.2 A Councillor does not however need a referral from a constituent in order to start the process. It is important to recognise that an a CCfA is not guaranteed to solve a given problem, though it can provide a method for discussing such problems and, through discussion, attempt to overcome them.

### 4. **HOW AND WHEN SHOULD I MAKE A CCFA**

- 4.1 A flowchart showing the process is provided at Annex A. A councillor may initiate the process by completing the form at Annex B. Further copies are available from [your Scrutiny Support]. It is important that the local councillor specifies what outcome is expected from the referral. After completion the form should be returned to the Head of Democratic Services who will log and acknowledge the referral within five working days, to track its progress and forward a copy of the form to the Proper Officer.
- 4.2 The Proper Officer will confirm whether or not the referral satisfies the requirements outlined in paragraph 0 above to enable it to be placed on the agenda for discussion at a meeting of the Select Committee. The Proper Officer reserves the right to exclude from the agenda any matter which is vexatious, discriminatory or otherwise potentially unlawful; and the Councillor will be informed of this outcome as soon as practicable.

### 5. **CRITERIA TO BE FOLLOWED BY A SELECT COMMITTEE**

- 5.1 It is up to the Members of a Select Committee to decide whether, and in what form, to take the matter further. The Select Committee will use the following criteria to decide whether or not the referral is appropriate to be considered by that Select Committees :
- 5.1.1 Is that Select Committee satisfied that all reasonable attempts have been made to resolve the issue by the local councillor? Do the responses received by the referring councillor demonstrate that the matter is not being progressed?
- 5.1.2 Has that Select Committee considered a similar issue recently? If so, have the circumstances or evidence changed?
- 5.1.3 Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- 5.1.4 Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?
- 5.1.5 Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- 5.1.6 Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- 5.1.7 Is the matter an issue of genuine local concern which impacts on the local community rather than a personal matter?
- 5.1.8 Is this an issue currently being looked at by another form of local scrutiny?
- 5.1.9 And, as with all scrutiny, does the matter have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the Member's electoral division?

NB: Crime and Disorder referrals should be directed to the designated Crime and Disorder Select Committee .

- 5.2 If a Select Committees decides not to accept the CCfA it must inform the councillor of the decision and the reasons for it.

5.3 If a Select Committee decides to accept the CCfA the Councillor will be informed and advised of the agreed Protocol, eg the Councillor will be given adequate notice (a minimum of 10 clear days) of the date of the Select Committee's meeting. The Councillor will be requested to attend to the Select Committee and informed that he/she will have five minutes in which to address the Select Committee. The Select Committee may then wish to question the Councillor further before deciding how it intends to take the matter forward. This could include:

5.3.1 asking the relevant responsible authorities to respond to the CCfA;

5.3.2 setting up a research or task and finish group to undertake a more in-depth review;

5.3.3 asking for further evidence and/or witnesses to be brought to a future meeting. The Select Committee has the power to request "designated persons" such as representatives from other public bodies/agencies to attend, where relevant, and to request information.

## 6. **POTENTIAL OUTCOMES FROM A CCFA**

6.1 A Select Committee could:

6.1.1 determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;

6.1.2 write a response and make recommendations on the CCfA to a relevant responsible authority;

6.1.3 decide that further action is not appropriate giving its reasons.

6.2 Once a Select Committee has completed its work, the Councillor who made the referral will receive a copy of any response or recommendations made.

## 7. **TIMESCALES FOR DEALING WITH A CCFA**

7.1 In exceptional circumstances, for example where there are unavoidable time constraints, a special Select Committee meeting may be convened.

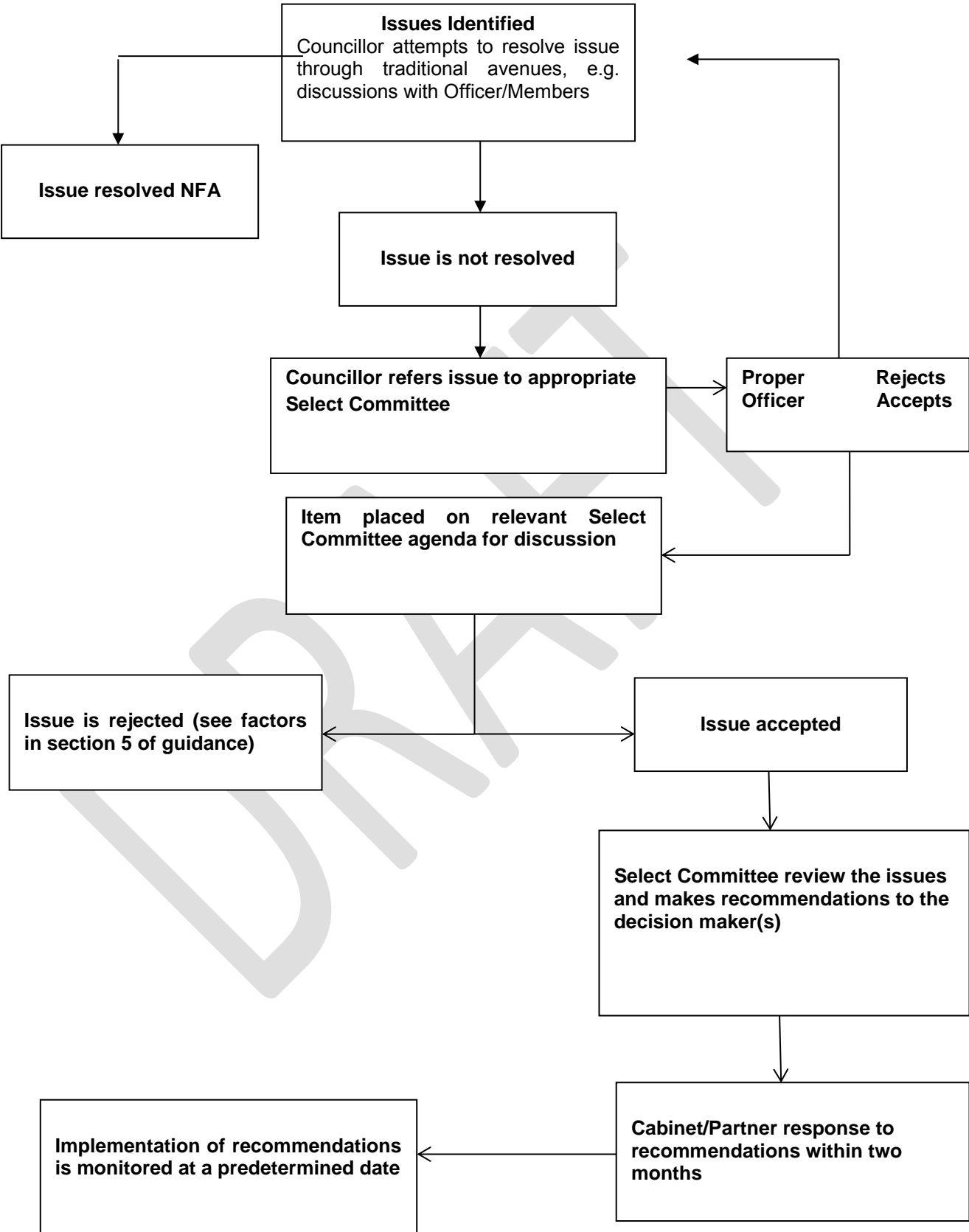
7.2 Should a CCfA result in recommendations to the Cabinet responsible authorities, they will be requested to make a response to the recommendations within 28 days and two months respectively.

7.3 A Select Committees will monitor implementation of any recommendations as part of its Forward Work Programme.

## 8. **REVIEW OF THIS GUIDANCE**

This guidance is based on a model prepared and approved by the Association of Council Secretaries and Solicitors (ACSeS) in October 2009. ACSeS will review their model guidance in light of experience of the use of these procedures by local authorities in Wales, and this guidance may therefore be modified accordingly.

APPENDIX 2 TO SECTION 7 Flow Chart for Councillor Call for Action



**Appendix 3 to Section 7****Councillor Call for Action Referral**

<b>For the attention of</b> (name and title of Proper Officer)	
<b>From</b>	Councillor
<b>Electoral Division</b>	
<b>Contact details</b>	
<b>Telephone</b>	
<b>E-mail</b>	
<b>SUBJECT</b>	
<b>Details</b> Please briefly explain what the issue is and how it affects your electoral division.	
<b>Action taken to date</b> Please explain what steps have been taken, with whom, to try to resolve the issue (please tick the actions you have taken to date) or add additional.	<ul style="list-style-type: none"> <li>Informal discussions with Officers or other councillors</li> <li>Informal discussions with partner representatives</li> <li>Referral to other "scrutiny" bodies such as Community Health Councils or internal audit committee</li> <li>Formal discussions with Officers and councillors</li> <li>Formal letters to the Cabinet Members</li> <li>Asking questions at Full Council</li> <li>Submitting a motion to Full Council</li> <li>Organising public meetings</li> <li>Use of petitions</li> <li>Making a complaint</li> <li>Questions at Full Council</li> <li>Freedom of Information requests</li> <li>Communication with local AMs or MPs</li> <li>Use of social media or email based campaigns</li> </ul>
<b>Expected Outcome</b> Please describe the outcome you hope to gain via this referral.	
<b>Papers attached</b> Please list documents attached which should evidence the impact of the issue, the steps taken and any responses received.	



9. The following criteria will be taken into consideration when a Select Committee decide whether to progress with your CCfA:
  - 9.1 Have all reasonable attempts been made to resolve the issue? Do the responses received by you demonstrate that the matter is not being progressed?
  - 9.2 Has the committee considered a similar issue recently – if yes have the circumstances or evidence changed?
  - 9.3 Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate LCDR hearing. Relevant time pressures on resolving the CCfA should be taken into account.
  - 9.4 Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response have you received?
  - 9.5 Is this a case that is being or should be pursued via the Council’s corporate complaints procedure?
  - 9.6 Is it relating to a “quasi-judicial” matter or decision such as planning or licensing?
  - 9.7 Is the matter an issue of genuine local concern, which impacts on the local community rather than a personal matter?
  - 9.8 Is this an issue currently being looked at by another form of local scrutiny?
  - 9.9 And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations, which could realistically be implemented and lead to improvements for anyone living or working in your electoral division.
10. Please consider whether your referral might be considered premature by the Select Committee. Consider whether other potential remedies have been exhausted, before a referral is made. Members should be aware that if a premature referral is made, the Committee is likely to refuse to deal with the issue, based on the criteria outlined above. If the Proper Officer believes that the referral is premature, he/she will advise you accordingly.

**SECTION 8****8. THE STANDARDS COMMITTEE****Composition****8.1 Membership**

The Standards Committee is composed of nine Members. Its Membership includes:

- 8.1.1 5 “independent” Members, who are not either a Councillor or an Officer or the spouse of a Councillor or an Officer of this Council or any other relevant Authority as defined by the Local Government Act 2000, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (as amended);
- 8.1.2 3 Councillors other than the Leader and not more than one Member of the Executive; and
- 8.1.3 1 Community Council Member.

**8.2 Term of Office**

- 8.2.1 Independent Members are appointed for a period of not less than four and not more than six years and may be reappointed for a consecutive term not exceeding four years.
- 8.2.2 Members of local authorities who are Members of the Standards Committee will have a term of office of no more than four years or until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further consecutive term.

**8.3 Quorum**

A meeting of the Standards Committee shall only be quorate when:

- 8.3.1 at least three Members, including the Chairperson, are present; and
- 8.3.2 at least half the Members present (including the Chairperson) are Independent Members.

**8.4 Voting**

Independent Members and Community Council Members will be entitled to vote at meetings.

**8.5 Chairing the Committee**

- 8.5.1 Only an Independent Member of the Standards Committee may be the Chair.
- 8.5.2 The Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of:
  - (i) not less than four years or no more than six years; or
  - (ii) until the term of office of the Independent Member comes to an end.

**8.6 Role and Function**

The Standards Committee will have the following roles and functions:

- 8.6.1 promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Authority;
- 8.6.2 assisting the Councillors and co-opted Members to observe the Members’ Code of Conduct;
- 8.6.3 advising the Council on the adoption or revision of the Members’ Code of Conduct;
- 8.6.4 monitoring and from time to time reviewing the operation of the Members’ Code of Conduct and protocols which apply to members of the Council, employees, contractors and other parties or organisations associated with Council activity;

- 8.6.5 advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- 8.6.6 granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- 8.6.7 dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales;
- 8.6.8 mentoring and supporting the Council's Monitoring Officer in the discharge of his/her role;
- 8.6.9 receiving and investigating (where statute permits) reports and complaints relating to the Members' Code of Conduct and protocols approved by the Council from time to time;
- 8.6.10 the exercise of the foregoing in relation to the town and community councils wholly or mainly in its area and the members of those town and community councils;
- 8.6.11 ensuring the Council's whistle blowing procedures operate effectively;
- 8.6.12 ensuring the Council's complaints procedures operate effectively and publishing an annual report on the operation of the system.

8.7 **Work Programme**

The Committee will prepare a work programme, which will be reviewed and approved at each Committee meeting.

8.8 **Rules of Procedure and Debate**

- 8.8.1 The Council Procedure Rules at Section 4 will apply to the meetings of the Standards Committee Members.
- 8.8.2 When considering the conduct of individual Councillors, the procedures outlined in Appendix 3 to Section 18 will apply.

**SECTION 9****9. REGULATORY COMMITTEES****9.1 Regulatory and Other Committees**

The Council will appoint the Committees to discharge the functions set out in Section of this Constitution.

**9.2 The Audit Committee**

9.2.1 The Council will appoint an Audit Committee to discharge the functions described in Section 13 of this Constitution and in accordance with sections 81-87 of The Measure.

9.2.2 The Committee shall comprise of Councillor Members (being at least two thirds of the Membership) and at least one Member who is not a Member of the Council (lay Member) and no more than one Member of the Cabinet (which Cabinet Member must not be the Leader).

9.2.3 The Chair of the Audit Committee is appointed by it and cannot be a Member of the Cabinet but can be a lay Member and can only be a Member of an executive group if there are no opposition groups.

9.2.4 Members of the Audit Committee may vote on any matter that falls to be decided by the Committee.

**9.3 The Democratic Services Committee**

9.3.1 The Council will appoint a Democratic Services Committee to discharge the functions described in Section 13 of this Constitution.

9.3.2 The Committee shall comprise of Councillor Members but no more than one Member of the Cabinet (which Cabinet Member must not be the Leader).

9.3.3 The Chair of the Democratic Services Committee is appointed by Full Council and must not be the Cabinet Member.

**9.4 Other Committees and Sub-Committees**

9.4.1 The Council will appoint such other Committees as it considers appropriate to the exercise of its functions. These will include a Planning and Licensing Committee.

9.4.2 Any Committee appointed by the Council may at any time appoint additional Sub-Committees and panels throughout the year. The terms of reference and delegation of powers to them shall be explicit and within the appointment Committee's terms of reference.

**9.5 Rules of Procedure and Debate**

The Council Procedure Rules in Section 4 will apply.

**SECTION 10****10. JOINT COMMITTEES AND AREA COMMITTEES****10.1 Joint Committees**

There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority.

**10.2 Arrangements to Promote Wellbeing**

The Cabinet in order to promote the economic, social, or environmental wellbeing of its area may:

- 10.2.1 enter into arrangements or agreements with any person or body;
- 10.2.2 co-operate with, or facilitate or co-ordinate the activities of any person or body; and
- 10.2.3 exercise on behalf of that person or body any functions of that person or body.

**10.3 Joint Arrangements**

- 10.3.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not Executive Functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 10.3.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- 10.3.3 The Cabinet may appoint Members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is Member for an electoral division contained within the area. Political balance requirements do not apply to such appointments.

**10.4 Access to Information**

- 10.4.1 The Access to Information Procedure Rules in Section 14 apply.
- 10.4.2 If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
- 10.4.3 If the Joint Committee contains Members who are not on the Cabinet of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

**10.5 Delegation to and from Other Local Authorities**

- 10.5.1 The Council can delegate Non-Executive Functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.
- 10.5.2 The Cabinet can delegate Executive Functions to another local authority or the executive of another local authority in certain circumstances.
- 10.5.3 The decision whether or not to accept such a delegation from another local authority is reserved to the Full Council.

10.6 **Contracting Out**

The Council (in respect of Non-Executive Functions) and the Cabinet (in respect of Executive Functions) may contract out to another body or organisation functions:

- 10.6.1 which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or
- 10.6.2 under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

10.7 **Area Committees**

**(To be inserted)**

DRAFT

**SECTION 11****11. OFFICERS****11.1 Management Structure**

## 11.1.1 General

The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

## 11.1.2 Chief Officers

The Full Council will engage persons for the following posts, who will be designated Chief Officers, which designation includes persons acting temporarily in such capacity:

<b>Post</b>	<b>Functions and Areas of Responsibility</b>
Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility including overall management responsibility for all Officers.</p> <p>Principal adviser to the Council on general policy.</p> <p>The provision of professional and impartial advice to all parties in the decision making process to the Cabinet, to Select Committees, the Full Council and other Committees).</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions (executive or otherwise).</p> <p>Representing the Authority on partnership and external bodies (as required by statute or the Council).</p> <p>Service to the whole Council, on a politically neutral basis.</p> <p>Regulatory Services</p> <p>Citizen engagement and Performance Framework</p> <p>Finance</p> <p>Operations</p>
Chief Officer, Enterprise	Innovation and Enterprise, Developing Communities, Leisure Arts and Tourism and Human Resources.
Chief Officer, Children and Young People	Education Services including schools and continuing education.
Chief Officer, Social Care and Health	<p>Housing, Older Persons, Mental Health Service, Learning disabilities,</p> <p>Children's Services including safeguarding, looked after children and children in need, youth offending, adoption and fostering.</p>

## 11.1.3 Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Chief Finance Officer	Chief Finance Officer
Head of Democracy and Regulatory Service	Head of Democratic Services

Such posts will have the functions described in Sections 11.2 to 11.5.

## 11.2 **Functions of the Head of Paid Service**

### 11.2.1 Discharge of Functions by the Council

Section 4 of the Local Government and Housing Act 1989 imposes a duty on authorities to designate one of their officers as Head of Paid Service. The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Staff required for the discharge of functions, the organisation of the authority's staff and the appointment and proper management of the authority's staff.

### 11.2.2 Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer if a qualified accountant.

## 11.3 **Functions of the Monitoring Officer**

These are set out in section 5 of the Local Government and Housing Act 1989 as amended.

### 11.3.1 Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

### 11.3.2 Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Cabinet in relation to any Function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### 11.3.3 Supporting the Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

### 11.3.4 Receiving Reports

The Monitoring Officer will receive and act on reports made by the Ombudsman and decisions of the case tribunals.

### 11.3.5 Conducting Investigations

The Monitoring Officer will conduct investigations into matters referred by the Ombudsman and make reports or recommendations in respect of them to the Standards Committee.

### 11.3.6 Proper Officer for Access to Information



The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

11.3.7 Advising whether decisions of the Cabinet are within the Budget and Policy Framework

The Monitoring Officer will, in conjunction with the Chief Finance Officer, advise whether decisions of the Cabinet – are in accordance with the Budget and Policy Framework.

11.3.8 Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to the Councillors.

11.3.9 Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer, the Head of Paid Service or the Head of Democratic Services.

11.4 **Functions of the Chief Finance Officer**

These are set out in section 6 of the Local Government and Housing Act 1989.

11.4.1 Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

11.4.2 Administration of Financial Affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

11.4.3 Contributing to Corporate Management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

11.4.4 Providing Advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

11.4.5 Give Financial Information

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

11.4.6 Advising whether Decisions of the Cabinet are within the Budget and Policy Framework

The Chief Finance Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

11.4.7 Restrictions on Posts

The Chief Finance Officer cannot be the monitoring officer or the Head of Democratic Services.

### 11.5 **Functions of the Head of Democratic Services**

These are set out in section 9 of The Measure. The functions of the Head of Democratic Services are:

- 11.5.1 to provide support and advice to the authority in relation to its meetings, subject paragraph 11.5.9;
- 11.5.2 to provide support and advice to committees of the authority (other than the committees mentioned in paragraph 11.5.5) and the members of those committees, subject to paragraph 11.5.9;
- 11.5.3 to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to paragraph 11.5.9;
- 11.5.4 to promote the role of the authority's Select Committees ;
- 11.5.5 to provide support and advice to:
  - (a) the authority's Select Committees and the members of those Select Committees; and
  - (b) the authority's Democratic Services Committee and the members of that committee;
  - (c) to provide support and advice in relation to the functions of the authority's Select Committees to each of the following:
    - (i) members of the authority;
    - (ii) members of the executive of the authority;
    - (iii) officers of the authority;
- 11.5.6 to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to paragraph 11.5.9;
- 11.5.7 to make reports and recommendations in respect of any of the following:
  - (a) the number and grades of staff required to discharge democratic services functions;
  - (b) the appointment of staff to discharge democratic services functions;
  - (c) the organisation and proper management of staff discharging democratic services functions;
- 11.5.8 such other functions as may be prescribed by law.
- 11.5.9 Restrictions on Post

The Head of Democratic Services cannot be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.

The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the Select Committees and Democratic Services Committee.

Advice to a Member does not include advice in connection with their role as an executive Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of a Select Committee or Democratic Services Committee).

### 11.6 **Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services**

The Council will provide the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and the Head of Democratic Services with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### 11.7 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Sections 20 and 22 of this Constitution.

### 11.8 **Employment**

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out below.

### 11.9 **Officer Employment Procedure Rules**

#### 11.9.1 Recruitment and Appointment

##### (a) Declarations

- (i) The Council has drawn up procedures which include a requirement that any candidate for an appointment as an Officer must state in writing whether they have any relationship with any councillor or Officer of the Council.
- (ii) No candidate so related to a Councillor or a senior Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him.

##### (b) Seeking Support for Appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor or employee of the Council will seek support for any person for any appointment with the Council.

#### 11.9.2 Recruitment of Chief Officers

Where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006) and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

##### (a) draw up a statement including the following:

- (i) duties of the Officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the procedures mentioned in paragraph (a) to be sent to any person on request.

#### 11.9.3 Where a post has been advertised as provided in 11.9.2 above, the Council must:-

- (a) interview all qualified applicants for the post, or
- (b) select a short list of such qualified applicants and interview those included on the short list.
- (c) Where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with 11.9.2 above.

#### 11.9.4 Appointment of Head of Paid Service/Chief Executive

The full council will make the appointment of the Head of Paid Service following the recommendation of a short list for such an appointment by a committee of

the Council. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

#### 11.9.5 Appointment of Chief Officers and Deputy Chief Officers

The full Council will appoint statutory chief officers. A committee of the Council will appoint non-statutory chief officers and deputy chief officers. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

11.9.6 Save for the appointment of the Head of Paid Service/Chief Executive (11.9.4), the steps in 11.9.2 and 11.9.3 may be undertaken by a committee, sub-committee or chief officer.

#### 11.9.7 Disciplinary action - Head of Paid Service, Chief Finance Officer, Monitoring Officer and Head of Democracy

(a) No disciplinary action (other than action to which paragraph (b) applies) in respect of the head of the authority's paid service, its monitoring officer, its chief finance officer or its head of democratic services, may be taken by the Council, or by a committee, a sub-committee, a joint committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (investigation of alleged misconduct). The detailed rules appear in paragraph 7 below.

(b) The action to which this paragraph applies is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; provided such suspension is on full pay and terminates no later than the expiry of two months beginning on the day on which the suspension takes effect.

#### 11.9.8 Investigation of alleged misconduct - Head of Paid Service, Chief Finance Officer, Monitoring Officer and Head of Democracy

(1) Where it appears to the Council that an allegation of misconduct which may lead to disciplinary action has been made against—

- (a) the head of the council's paid service;
- (b) its monitoring officer;
- (c) its chief finance officer; or
- (d) its head of democratic services

("the relevant officer"), as the case may be,

the council must appoint a committee ("an investigation committee") to consider the alleged misconduct.

(2) The investigation committee must:

- (a) consist of a minimum of 3 members of the relevant authority;
- (b) be politically balanced in accordance with section 15 of the Local Government and Housing Act 1989; and must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.

(3) For the purpose of considering the allegation of misconduct, the investigation committee:

(a) may make such enquiries of the relevant officer or any other person it considers appropriate;

(b) may request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and

(c) may receive written or oral representations from the relevant officer or any other person it considers appropriate.

(4) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person")

(5) The designated independent person who is appointed—

(a) must be such person as may be agreed between the relevant authority and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose; or

(b) where there is no such agreement, must be such person as is nominated for the purpose by the National Assembly for Wales.

(6) The designated independent person—

(a) may direct—

(i) that the relevant authority terminates any suspension of the relevant officer;

(ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 11.9.6 (b) above;

(iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or

(iv) that no steps (whether by the relevant authority or any committee, sub-committee or officer acting on behalf of the Council) by way of disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (d) below;

(b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council, or which the Council has power to authorise the designated independent person to inspect;

(c) may require any member or member of staff of the relevant authority to answer questions concerning the conduct of the relevant officer;

(d) must make a report to the Council –

(i) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer; and

(ii) recommending any disciplinary action which appears appropriate for the Council to take against the relevant officer, and

(e) must no later than the time at which the report is made under sub-paragraph (d), send a copy of the report to the relevant officer.

(7) Subject to paragraph (8), the relevant officer and the Council must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.

(8) Where there is no agreement under paragraph (7), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

(9) The council must consider the report prepared by the independent person under paragraph (6) (d) above within 1 month of receipt of that report.

(10) The Council will pay reasonable remuneration to a designated independent person appointed by the investigation committee and any costs incurred by, or in connection with, the discharge of functions under this provision.

(11) A disciplinary committee of the Council (excluding those persons who served on the investigation committee) will consider the report under para. (9) above along with representations from the officer against whom allegations are made, in accordance with the Council's detailed disciplinary procedures. An appeal will lie to the full Council from the decision of this committee, except in the case of the Head of Paid Service (in which case the Council will consider an appeal, or approve the recommendation of the committee if no appeal is made).

11.9.9 Other Officers

- (a) Appointment and dismissal of Officers below Chief Officer is the responsibility of the Chief Executive/Head of Paid Service or his nominee, and may not be undertaken by councillors.
- (b) Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Members.

**SECTION 12****12. FINANCE CONTRACTS AND LEGAL MATTERS****12.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Section 16 of this Constitution.

**12.2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Section 17 of this Constitution.

**12.3 Legal Proceedings**

12.3.1 The Head of Legal Services is authorised to institute, defend, participate in or settle 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 [title] considers that such action is necessary to protect the Council's interests.

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

**12.4 Authentication of Documents**

12.4.1 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 Services or other person authorised by him/her, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.

12.4.2 Any contract with a value exceeding £25,000, entered into on behalf of the Council shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must be signed by at least two Officers of the Council or made under common seal of the Council attested by at least one Officer if they exceed £75,000 in value.

12.4.3 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:

- (a) the Chief Executive;
- (b) the Head of Legal Services
- (c) any Chief Officer of the Council concerned with the matter to which the document relates; or,
- (d) any Officer authorised in writing by such Chief Officer.

**12.5 Common Seal of the Council****12.5.1 Common Seal**

- (a) The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal Services.
- (b) A decision of the Council, including decisions under delegated powers, will be sufficient authority for sealing any document necessary to give effect to the decision.

**12.5.2 Sealing and Execution of Documents**

- (a) **The Head of Legal Services** shall have authority to affix the Common Seal and execute under Seal any deed or document.
- (b) The Head of Legal Services 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.
- (c) This function can be delegated further by the Head of legal Services.

12.5.3 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 Head of Legal Services and consecutively numbered in a book to be provided for the purpose.

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