

# **Monmouthshire County Council**

## **Constitution**

**November 2017**

As agreed by the County Council at its meeting on .....

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## **PART 1 – INTRODUCTION (A)**

### **PURPOSE AND CONTENT OF THE CONSTITUTION**

The Constitution is at the heart of the Council’s business and describes the various bodies that make up the Council, their functions, Membership and procedural rules. It 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,

Article 3 (Citizens and the Council) provides information for members of the public 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.

You can get a better understanding of what each of the Council’s bodies do in Articles 4 to 12 of this Constitution, including Full Council, Cabinet, Select Committees, Standards Committee and Regulatory Committees. Article 12 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 Part 3 says which Council bodies, and which Officers, have authority to make which decisions.

The procedural rules that apply to the different Council bodies are contained in Part 4 in the sections relating to those bodies, e.g. Full Council (Standing Orders), the Cabinet (Executive Procedure Rules) and Overview and Scrutiny (Select Committee Procedure Rules). 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.

Part 5 has the Codes of Conduct and Protocols which Officers and Members have agreed to comply with. They set the standards of behaviour.

The Contents page at the beginning of this Constitution provides a guide on what is in the Constitution and where you can find it.

## HOW THE COUNCIL OPERATES

The Council is comprised of 43 Councillors elected every five years except as otherwise directed by the Welsh Government. 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.

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.

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 i.e. 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, County Hall, The Rhadyr, Usk. NP15 1GA.  
01633644064**

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.

## **PART 2 – ARTICLES (B)**

### **Article 1 – The Constitution**

#### **PURPOSE, DEFINITION INTERPRETATION AND AMENDMENT OF THE CONSTITUTION**

##### **1.01 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 authority decision making;
- 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 scrutinise a decision in which they are 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.

##### **1.02 Definitions in the Constitution**

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

Within the Constitution the following words and phrases have the meaning set out below unless the context specifically or otherwise requires:

Budget	the overall revenue and capital budget approved by Full Council (Article 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 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 a Chief Officer in respect of all or most of his/her duties;
Executive	when exercising Executive Functions; the Cabinet or a Member or Members of the Cabinet
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	<p>(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.</p> <p>(b) Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.</p> <p>It should be noted that Regulatory functions such as planning licensing and building control, are not Executive Functions;</p>
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 Article 12 for a description of those functions. The Officer will usually have other duties and a different job title. See Article 12 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 Article 12 for more details. The Officer will usually have other duties and a different job title. See Article 12 for which Officer is the Head of Paid Service;
Leadership Team	The senior management body for Officers (Article 12). 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);



	<p>Planning Committee;</p> <p>Appeals Panel;</p> <p>Audit Committee;</p> <p>Democratic Services Committee;</p> <p>Note - references to Committee also includes Sub-Committee;</p>
Monitoring Officer	<p>an Officer who must be appointed by law to carry out certain functions. See Article 12 for a description of those functions. The Officer will usually have other duties and a different job title. See Article 12 for which Officer is the Monitoring Officer;</p>
Non-Executive Functions	<p>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;</p>
Planning Application	<p>any of the following:</p> <p>application for planning permission (including renewal);</p> <p>application for approval of reserved matters;</p> <p>application for listed building consent;</p> <p>application relating to trees;</p> <p>proposal to serve an urgent works notice or acquire a listed building in need of repair;</p> <p>application for conservation area consent;</p> <p>application for advertisement consent;</p> <p>application to vary or remove conditions on a planning condition;</p>
Policy Framework	<p>See Article 4</p>
Section 151 Officer	<p>an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Article 12 for a description of those</p>

functions. The Officer will usually have other duties and a different job title. See Article 12 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.

**1.03 Interpretation of the Constitution**

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.

During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules.

In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

## 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 five years except as otherwise directed by the Welsh Government. The next regular elections will take place in 2022. 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 Key roles of all councillors. 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 advocates 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.

### 2.04 Information Available to Members of the Council

Members can see any information, which is available to a member of the public. In addition, all reports (including those that are "exempt" or "confidential" by virtue of Schedule 12A Local Government Act 1972 as amended) to all decision making bodies are available to all members.

A Member may also 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"). The Chief Executive or Monitoring officer will

adjudicate any such requests.

A Member will not make public information which is confidential or exempt (as defined in the Access to Information Procedure Rules in Part 4)) 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.

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 entitled to:

- (a) any document in draft form;
- (b) 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.

**2.05 Getting Involved**

**Members can get involved by:**

(a) 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:

- (i) 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 (Part 4 Select Committee Procedure Rules, paragraph 10) Cabinet (ibid, paragraph 14)

- (ii) Any Member can submit a Notice of Motion to Council (Part 4) and also ask questions (Part 4).

(b) 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.

(i) 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.

(ii) 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.

(c) Comments and Complaints

Members may comment, subject to restrictions in the Code of Conduct for Members (Part 5) 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.

If a Member wishes to complain about an Officer, the procedure set out in the Protocol on Member/Officer Relations may be used (Part 5).

If a Member wishes to complain about another Member, the procedure set out in the protocol for Self-regulation of Member Conduct (Part 5) may be followed.

#### **2.06 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.

#### **2.07 Allowances**

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

## Article 3 – Citizens and the Council

### 3.01 Getting Information

#### When Meetings of the Member Bodies Will Take Place

A programme of meetings is available by contacting the Council direct or via the website.

#### 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.

#### 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.

#### 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).

#### 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.

#### 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 10.4 and 10.5 of the Access to Information Rules (Part 4) will not be disclosed to members of the public at any time.

### 3.02 Getting Involved

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 suggesting 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 attend 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 Part 4.
- (ii) You can also ask Formal Questions at meetings of Full Council (Part 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 Access to Information Rules paragraph 10.5 for definition of ‘exempt information’ and ‘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.

(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.

### 3.03 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.



## Article 4 – The Full Council

4.01 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.

### 4.02 Meanings

#### (a) Policy Framework.

The policy framework means the following plans and strategies:-

- Well-being Plan
- Social Services Area Plan
- Well-being Statement and Objective
- Corporate Plan
- Medium Term Financial Plan
- Asset Management Plan
- Local Development Plan
- Strategic Equality Plan
- Welsh Language Strategy
- Welsh in Education Strategic Plan
- Chief Officers Annual Reports
- Armed Forces Covenant
- Corporate Parenting Strategy

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) 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 the Budget and Policy Framework Procedure Rules in Part 4 for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet.)

#### (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 section 32 or 43 of the Housing Act 1985.

#### **4.02 Functions of the Full Council**

Only the Full Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) 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;
- (c) 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;
- (d) appointing and removing the Leader;
- (e) 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;
- (f) changing the name of the area or conferring the title of freedom of the County;
- (g) making or confirming the appointment of the Head of Paid Service and other Chief Officers;
- (h) making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Personal Bills;
- (i) 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;
- (j) 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;
- (k) appointing representatives to outside bodies unless the appointment has been delegated by the Council or is exercisable only by the Cabinet.

#### **4.03 Membership**

All Members of the Council shall be Members of Full Council.

Substitution is not possible at meetings of the Council.

#### **4.04 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.

#### **4.05 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.

## Article 5 – Chairing the Council

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

The Councillor elected annually by the Council as its chair will be called the "Chair".

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.

The Chair of the Council and in his/her absence, the Vice Chair will have the following roles and functions:

#### 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.

#### Responsibilities of the Chair

- 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 Chair to account;
- to promote public involvement in the Council's activities;
- to be the conscience of the Council;
- to attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
- to carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

## Article 6 – Select Committees

### OVERVIEW AND SCRUTINY COORDINATION

#### 6.01 Introduction

The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Overview and Scrutiny (or 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.

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.

#### 6.02 Select Committees

In order to achieve this, the Council have appointed five Select Committees which between them will:

- 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;
- make reports or recommendations to the Council or the Cabinet in connection with the discharge of any functions;
- consider any matter which affects the Council's area or its inhabitants; and
- exercise the right to call in for reconsideration decisions made but not yet implemented by the Cabinet and Officers.

#### 6.03 Role, Scope and Membership

The role, scope and Membership of the Select Committees are described in the table below:

Committee and Membership	Role and Scope
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.
Public Service Board Select – 9 members, comprising the four Select Chairs and five members and up to 5 co-opted members	<p>a) To review and scrutinise the decisions made or actions taken by the public services board;</p> <p>b) to review and scrutinise the board's governance arrangements;</p> <p>c) to make reports and recommendations to the board regarding its functions or governance arrangements;</p> <p>d) to consider matters relating to the board as the Welsh Ministers may refer to it and report to the Welsh Ministers accordingly; and</p> <p>e) to carry out other functions in relation to the board that are imposed on it by the Act.</p>

#### 6.04 Specific Functions

##### 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.

### 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).

### 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.

#### 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.

#### **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 .

#### **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.

#### 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.

#### 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.

### **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.

### Role of the Chair and the Select Committees

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 .

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.

### 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.

### Meetings

The Select Committees will have 8 meetings a year.

Extraordinary meetings may be called from time to time in order to deal with call-ins (Paragraph 14 of the Select Committee Procedure Rules) where the Chair of a Select Committee agrees it is necessary for that Select Committee to consider the called in decision before the Select Committee's next programmed meeting.

The quorum of a Select Committee will be 3 Members.

### 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.

### **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.

### **The Coordinating Board**

The Council will establish a Coordinating Board comprising of the Chair of each Select Committee, the Leader and Deputy Leader, the Chairman of each Area Committee, the Scrutiny Champion and the Chief Executive. The Chairman of the County Council will also be invited to attend.

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. Its role and functions are detailed in the Select Committee Procedure Rules set out in Part 4 of this Constitution.

## **Article 7 – The Executive (Cabinet)**

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

#### **7.01 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.

#### **7.02 Form and Composition of the Cabinet**

The Cabinet will consist of:

- (a) the Leader of the Council (the “Leader”); and
- (b) at least two but not more than nine other Councillors appointed to the Cabinet by the Leader.

#### **7.03 Leader**

##### Election

The Leader will be a Councillor elected to the position of Leader by the Council.

##### Term of Office

The Leader is appointed on an annual basis at the annual meeting of the Council. He may be removed by motion of the Council pursuant to Rule 12.4 of the Rules of Procedure set out at Part 4.

##### 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 the Executive Procedure Rules.

#### **7.04 Deputy Leader**

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.

The Deputy Leader from time to time 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. For the avoidance of doubt the Leader may, at his absolute discretion and at any time remove and/or appoint any member of the Council as deputy leader for this purpose.

### **7.05 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:

- he/she resigns from that office; or
- he/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or
- he/she ceases to be a Councillor.

The Leader may at any time appoint a Cabinet Member to fill any vacancies.

### **7.06 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:

- the Cabinet as a whole;
- a Committee of the Cabinet (comprising executive Members only);
- an individual Cabinet Member;
- a joint committee;
- another local authority or the executive of another local authority;
- a delegated Officer.

### **7.07 Rules of Procedure and Debate**

The proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules in Part 4 below.

## **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.

### **8.03 The Democratic Services Committee**

(a) The Council will appoint a Democratic Services Committee to discharge the functions described in Table 2 of Part 3 of this Constitution.

(b) The Committee shall comprise of Councillor Members but no more than one Member of the Cabinet (which Cabinet Member must not be the Leader).

(c) The Chair of the Democratic Services Committee is appointed by Full Council and must not be the Cabinet Member.

### **8.04 Other Committees and Sub-Committees**

(a) 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.

(b) 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.

### **8.05 Rules of Procedure and Debate**

The Council Procedure Rules in Part 4 will apply.

## 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 (as amended);
- 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 five 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 five 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.



## **Article 10 – Area Committees and Forums**

### **10.01 Area committees**

In order to bring discussion of council affairs closer to the community 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 4 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.

### **10.02 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.

## **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 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.

(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)	<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 Head of Democratic Services, 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>Operations</p>
Deputy Chief Executive	<p>Innovation and Enterprise, Developing Communities, Leisure Arts and Tourism and Housing, Citizen Engagement, Performance Framework, Planning and Democratic Services/Governance.</p>
Chief Officer, Children and Young People	<p>Education Services including schools and continuing education.</p>
Chief Officer, Resources	<p>Finance, Human Resources, Digital Asset Management.</p>

Chief Officer, Social Care and Health	Older Persons, Mental Health Service, Learning disabilities, Children's Services including safeguarding, looked after children and children in need, youth offending, adoption and fostering. <b>Regulatory Services.</b>
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(c) **Head of Paid Service, Monitoring Officer, Chief Financial 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
Deputy Chief Executive	Head of Democratic Services

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 Democratic Services

(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;

(iv) 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 Democratic Services**

The Council will provide the Monitoring Officer, Chief Finance Officer and Head of Democratic Services 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.

**12.10 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

## 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.
- (f) along with all relevant statutes including the Equality Act 2010 and the Wellbeing of Future Generations (Wales) Act 2015.

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 Committee 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.

## **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. The Head of Legal Services has delegated powers to authorise Officers to appear in Court on the Council's behalf.

### **14.04 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal 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 £25,000 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 in accordance with the Council's Contract Procedure Rules at Part 4 or made under the common seal of the council.

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 Monitoring Officer
- (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.

### **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. The Section 151 Officer shall be responsible for keeping under review the Financial Regulations set out in Part 4 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 Part 4 to the next available Council meeting for noting.

### **15.02 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:

- observe meetings of different parts of the Member and Officer structure;
- undertake an audit trail of a sample of decisions;
- record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and
- compare practices in this Council with those in comparable authorities, or national examples of best practice.

### **15.03 Changes to the Constitution**

#### **(a) Approval**

Subject to Minor and Legislative amendments referred to 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.

#### **(b) Minor Amendments**

If, in the reasonable opinion of the Monitoring Officer, a change is:

- a minor variation; or
- required to be made to remove any inconsistency, ambiguity or typographical correction; or
- required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,

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.

**(c) Legislative Amendment**

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.

## 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. Any of the procedure rules contained in the Constitution 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 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 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

The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices and on the Council's website.

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.

The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with Article 15.03

## **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).



## PART 3 - RESPONSIBILITY FOR FUNCTIONS (C)

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

Function	Body	Membership	Delegation
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	Up to 9 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	Executive	7	Monitoring Officer

section 87 applies: appeals by governing bodies)			
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 order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999	Executive following consultation with relevant Select Committee	7	
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; (b) To any body other than: (i) the authority (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body And the revocation of any such appointment	Council	43	
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	
21. Functions in respect of the calculation of council tax base in accordance with any of the following- (a) the determination of an item for T in section 33(1) and 44(1) of the Local Government Finance Act 1992;	Executive	7	Relevant Executive Member

<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>			
<p>22. Licensing functions in accordance with Part 2 of the Licensing Act 2003 except section 6.</p>	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 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>	Council	43	

24. The determination of school organisation proposals under the School Standards and Organisation (Wales) Act 2013	Executive		Relevant Executive Member
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**Table 2: Responsibility for Council Functions**

Committee	Membership	Functions
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.6 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.            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  <b>Along with the power to issue a site license in no-routine cases under the Mobile Homes (Wales) Act 2013.</b></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            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>
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><b>(g) to undertake any other functions as the authority considers suitable to be exercised by the Audit Committee.</b></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> </ul>

		<ul style="list-style-type: none"><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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**Table 3. Responsibility for Executive Functions**

Who is Responsible	Membership	Functions	Delegation of functions
The full Executive	Leader of the Council and up to 8 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”; and subject</li> <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. “Chief Officer” has the meaning within the Local Authorities (Standing Orders) (Wales) Regulations 2006 (as amended)

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.

## Scheme of Delegation to Officers – Planning Service

### A Guide to the Officer Delegation Scheme

The scheme aims to achieve an effective balance between:

- efficiency of determination on the majority of non-contentious applications that have limited community impact,
- being reasonably simple and easy to understand, and
- the member/community aspect by ensuring member involvement on contentious applications through committee or the Delegation Panel and local ward member request for applications to be presented to committee;

The Delegation Panel consists of the Chair, Vice Chair and Opposition Spokesperson of Planning Committee. The Panel does not determine applications or enforcement matters. Its role is to assess whether officers should determine those applications presented to it or to refer them to Planning Committee for determination.

### Definitions

“The Act” means the Town and Country Planning Act 1990 as amended and the Planning (Wales) Act 2015

“Local Ward Member” means the member for the electoral division in which the application site is located.

Planning Application means

- (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 Head of Legal Services).
- (f) Applications for Certificates of Lawfulness of Proposed Use or Development under Section 192 of the Act (jointly with the Head of Legal Services).
- (g) Applications to retain works or uses already carried out.
- (h) Applications to remove or modify conditions of planning permissions or to make minor material amendments to an approved scheme under Section 73 of the Act.
- (i) Applications for an approval required by a development order.

- (j) Proposals by statutory undertakers
- (k) Notices of Proposed Development by Government Departments.
- (l) Hedgerow removal notices under the Hedgerow Regulations 1997.
- (m) Applications for non-material amendments to a planning permission.

### **Delegation to Officers**

The delegation scheme authorises the following officers as set out in the scheme:

- Deputy Chief Executive
- Head of Planning Housing and Place-Shaping
- Development Services Manager
- Planning Applications and Enforcement Manager
- Heritage Manager

### **A. Planning Applications**

A.1 To determine or make observations subject to A.2 on all applications unless:

- (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 any of the following circumstances apply:
  - unresolved written objections on material planning grounds have been received from 5 or more separate households or organisations, (excluding Town or Community Councils) or
  - it is contrary to the advice of a statutory consultee, or
  - the community or town council has objected on material planning grounds and wishes to address Planning Committee
- (c) The application is:
  - by or on behalf of the Council and unresolved objections on material planning grounds have been received, or
  - for development on Council-owned land or in which the Council has a direct interest
- (d) The application is submitted by an employee of the Council who works within the Planning Section or one who has close involvement in the planning application process or a member or co-opted member of the Council or by a close relative of such an employee or member or where the application relates to land in which any of them have an interest
- (e) The local ward member has requested in writing that the application is presented to Planning Committee giving planning reasons for that request.

A.2 In consultation with the Delegation Panel to determine or make observations on applications except for those relating to householder development, advertisement applications and applications for Listed building and Conservation Area Consent where the application is to be recommended for approval and:

- unresolved written objections on material planning grounds have been received from 1 – 4 separate households or organisations, excluding Town and Community Councils or the Community or Town Council has objected on material planning grounds and does not wish to address Planning Committee, or
- the application is one to which A.1 (c) relates and no unresolved objections on material planning grounds have been received, or
- the Local Ward Member has requested in writing the application is referred to the Delegation Panel giving planning reasons for that request.

For the avoidance of doubt applications for householder development, advertisement consent, and Listed Building and Conservation Area Consent, shall be determined by officers unless the Local Ward Member has requested in writing the application is referred to Planning Committee or the Delegation Panel, giving planning reasons for that request. All other applications are delegated to officers to determine, including Non Material Amendments, applications for an approval required by a development order, proposals by statutory undertakers, Notices of Proposed Development by Government Departments and Hedgerow removal notices under the Hedgerow Regulations 1997.

A.3 To determine:

- the Council's case where there is an appeal against non-determination of an application
- the discharge of planning conditions requiring the specific approval of the Local Planning Authority
- to enter into obligations under Section 106 of the Act jointly with the Head of Legal Services, where it has been decided that planning permission should be granted subject thereto
- that an application is a departure from the development plan
- whether an Environmental Assessment is required and scoping the content of that Assessment
- whether an Appropriate Assessment is required under the Conservation (Natural Habitats etc.) Regulations 2010 (as amended).
- Local Impact Reports for Development of National Significance
- Whether an application is valid, issue an Invalid Notice and determine the Council's case where there is an appeal against such a Notice.

A.4 To make observations on planning consultations received from Brecon Beacons National Park and adjoining authorities.

A.5 To decline to determine an application for planning permission under the powers of Section 70A of the Act and Section 32 (where an enforcement notice has been served prior to the submission of the application).

A.6 To make all necessary decisions on procedural matters in connection with the processing of applications and appeals.

### **B. Enforcement of Planning Control**

B.1 In consultation with the Delegation Panel to determine that it is expedient to take action and to issue the following notices and thereafter to take all necessary steps to remedy the breach.

(a) Enforcement Notices and Stop Notices under Section 174 of the Act

(b) Listed Building Enforcement Notices under Section 38 of the Listed Building and Conservation Areas Act 1990

(c) To take prosecution proceedings and/or injunctions and/or action under the Proceeds of Crime Act, in consultation with the Head of Legal Services.

(d) Notices under Section 215 of the Act

B.2 In consultation with the Delegation Panel to determine that it is not expedient to take enforcement action.

B.3 To determine that it is expedient to take action and to issue the following notices and to take all necessary steps to remedy the breach:

(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) Listed Building Enforcement Notices under Section 38 of the Listed Building and Conservation Areas Act 1990

(e) Breach of Condition Enforcement Notices.

(f) Hedgerow Replacement Notices under the Hedgerow Regulations 1997.

(g) Enforcement Warning Notices under Section 43

(h) Temporary Stop Notices under Section 171E

B.4 To consider offers and representations made under Section 171C (4) of the Act (responses to Planning Contravention Notices).

B.5 To remove **or obliterate** unauthorised advertisements, placards and posters under Sections 224 and 225 of the Act.

### **C. Heritage**

C.1 In consultation with the Delegation Panel

- To serve building preservation notices under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in cases of emergency.
- To authorise urgent works under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

C.2 To approve grants for historic buildings under Historic Town Schemes.

### **D. Entry onto Land**

D.1 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. Miscellaneous**

E.1 To respond on behalf of the Council to HGV operator's licence applications.

**E.2 To respond to Welsh Government consultations on planning policy or development management or related matters.**

**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 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 Employee 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 contract procedure rules 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 contract procedure rules and financial regulations of the Council have been complied with.

5. To determine all operational issues relating to the implementation of policies under the Well-Being of Future Generations (Wales) Act 2015.

- 6. To approve courses for staff not exceeding 14 days per person in any one year.
- 7. To approve carry-over of leave in accordance with the Council's policy.
- 8. To deal with applications for leave without pay.
- 9. To authorise attendances at meetings of professional bodies.
- 10. To pay honoraria subject to notification to the Head of Employee Services.
- 11. 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.
- 12. To write-off or sell minor items of obsolete equipment (up to £1000).
- 13. 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.
- 14. 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.

15. In consultation with the Head of Finance to make applications for grants from central government or any other external source.
16. To give directions under s77 of the Criminal Justice and Public Order Act 1994 (Power of local authority to direct unauthorised campers to leave land).
17. In the year of local government elections, delegated authority for council and executive functions for decisions that need to be taken as a matter of urgency between the day of the election and the annual meeting of council. Any decisions taken during this period will be reported to the annual meeting of council or the first meeting of the cabinet of the new council if the decision taken is an executive function.

## **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 take out grants of representation to a deceased's estates as creditor, beneficiary or trustee.
5. 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.
6. To obtain Counsel's opinion and to brief Counsel.
7. 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.
8. 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.
9. To accept service of any proceedings.

10. 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.
11. (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 11(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.
12. To defend any criminal proceedings brought against the Council and to institute or defend appeals arising out of such proceedings.
13. 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.
14. To authorise persons to survey and enter land in connection with proposed compulsory acquisitions.
15. 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).

### **Deputy Chief Executive**

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

#### **1. Public Rights of Way**

(a) To make unopposed temporary Prohibition Orders and Notices under Section 14 of the Road Traffic Regulation Act 1984.

(b) 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.
- (c) To determine not to proceed with any such order.
- (d) To grant authorisations under Section 33 of the Road Traffic Act 1988.
- (e) To authorise permissive path agreements.
- (f) To authorise public path creation agreements under section 25 of the Highways Act 1980.

## **2. Tree Preservation**

- (a) To make provisional tree preservation orders under s.201 of the Act.
  - (b) Applications for consent for the cutting down, topping, lopping or destruction of trees under Sections 198 and 211 of the Act.
3. To exercise the Council's functions under Part IX of the Housing Act 1985 (Demolition and Closing Orders).
4. To acquire museum exhibits of value over £1000 (subject also to consultation with the Head of Finance)

## **Part 2**

### **Public Rights of Way**

1. To give notices under Section 14(2) of the Road Traffic Regulation Act 1984 in cases of emergency.
2. 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.
3. To make observations on orders proposed to be made by the Brecon Beacons National Park Authority.
4. To authorise erection of stiles etc. on footpaths and bridleways under section 147 of the Highways Act 1980.

5. To authorise applications to the magistrates' court to divert or extinguish public rights of way under section 116 of the Highways Act 1980.
6. 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 1 (b) in Part 1 above.
7. To authorise the provision of barriers etc. under section 66(2) and (3) of the Highways Act 1980.

### **Conservation**

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

### **Tree Preservation**

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

### **Entry onto Land**

11. To authorise persons to enter land under
  - (a) Sections 196A, 214B and 324 of the Town and Country Planning Act 1990
  - (b) Section 95 of the Building Act 1984
  - (c) Section 293 of, and paragraph 7 of Sched. 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.

### **Leisure Services**

12. To authorise free entry to any of the Council's museums for organised parties.

13. To authorise and carry out the destruction of any exhibits which are considered by him to be a considerable risk to other exhibits.

14. To authorise the fee for taking photographs inside any of the Council's museums to be waived in any cases considered appropriate.

15. To acquire museum exhibits up to £1,000 (in consultation with the Head of Finance).

## **Housing**

16. To manage the Council's housing stock.

17(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.

18. To administer housing schemes under which the Council sells and purchases properties so as to provide low-cost housing.

19. To approve and refuse applications for housing renovation grants.

20. The service of notices, certificates of disrepair, etc., under the Rent Acts.

## **Miscellaneous**

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

## **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. 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.
3. Either the Head of Finance or the Head of Audit, Resources and Performance Management (personally) to conduct the first review under such benefit schemes.
4. (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.
5. To manage the fund administered by the Council in accordance with the scheme made under Section 19 of the Welsh Church Act 1914.



6. 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.
7. To pay all accounts and to receive all income.
8. To deal with all insurance issues including risk management.
9. To manage arrangements with the Council's bankers.
10. To sign all statutory financial returns, accounts, grants and subsidy claims.
11. To instruct valuers for purposes of capital accounting, in consultation with the Monitoring Officer.
12. To approve housing guarantees and advances for house purchase and improvements (and to consider applications for consent under deeds of mortgage).
13. 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.

### **Highways**

4. 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.
5. 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.
6. To respond on behalf of the Council to HGV Operators' licence applications.
7. Authorise the making of agreements under section 38 of the Highways Act 1980.
8. Enforcement of car parking orders.
9. To respond to planning applications on behalf of the Council as Highway Authority.
10. To authorise applications to the magistrates' court to divert or extinguish highways, under section 116 of the Highways Act 1980.
11. 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.

### **Waste**

1. To authorise officers under the Environmental Protection Act 1990 to:
  - (a) To serve notices under sections 46 and 47.
  - (b) To issue fixed penalty notices under sections 34, 47ZA and 88.
  - (c) To investigate alleged contraventions of sections 33 and 34.
2. To authorise officers to serve fixed penalty notices for contraventions of the Dogs (Fouling of Land) Act 1996.

### **Chief Officer - Social Care and Health**

#### **In respect of social services functions:-**

**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 maintain the Child Protection Register.
2. To undertake assessments of the need for care and support, determine eligibility and make arrangements for meeting those assessed needs of children in accordance with the Council's statutory duties under the **Social Services and Well-Being (Wales) Act 2014**.
3. To safeguard and promote the well-being of looked after children in accordance with Section 78 of the Social Services and Well-Being (Wales) Act 2014
4. To exercise the Council's functions under Part 6 of the Social Services and Well-Being (Wales) Act 2014 to secure sufficient accommodation and maintenance for looked after children and to maintain and review care and support plans.
5. To exercise the functions of the Council under Sections 120 and 121 of the Social Services and Well-Being (Wales) Act 2014 in relation to children accommodated by health and education authorities or in residential care homes or mental nursing homes.
6. To exercise all duties and functions of the Council under the Children and Young Persons Act 1969.
7. To exercise the powers and duties of the Council under Part III of the Children Act 1989 (Local Authority Support for Children and Families).

8. 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.
9. 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.
10. 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.
11. To recover, vary or waive the charges for any service provided by the Council under Part 3 of the Children Act 1989 and part 6 of the Social Services and Well-being (Wales) Act 2014.
12. 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.
13. 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.
14. 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.
15. To appoint an independent visitor for a child where appropriate in accordance with paragraph 17 of Schedule 2 to the Children Act 1989.
16. 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.
17. To give consent to the marriage of a young person in care pursuant to Section 3 of the Marriage Act 1949.
18. To approve and sign applications for passports for children and young persons in the care of the Council.
19. 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.

20. To respond to the Local Education Authority who has consulted the Council under Section 36(8) of the Children Act 1989.
21. To approve the applications of children and young persons in the care of the Council who wish to join HM Forces.
22. To exercise the powers of the Council under Section 125 of the Social Services and Well-Being (Wales) Act 2014 in relation to the death of children looked after by local authorities.
23. 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.
24. 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.
25. 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.
26. 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.
27. To make ex gratia payments in respect of damage or injury resulting from the action of children looked after by the Council.
28. To make payments to promote contact between parents and children looked after by the Council in accordance with Section 96 of the Social Services and Well-Being (Wales) Act 2014.
29. 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.
30. To exercise the powers of the Council to make applications under Section 18 of the Adoption Act 1976.
31. To make applications under the Criminal Injuries Compensation Board Scheme for compensation in respect of children in care.

## **Adoption**

1. 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.
2. To approve the institution of adoption proceedings by foster parents.
3. 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.
4. To grant allowances to persons who have adopted children in accordance with Section 57 of the Adoption Act 1976.

#### **Guardian ad Litem Panel**

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

#### **Registration Functions**

7. 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.
8. 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.
9. 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**

10. To undertake assessments of the need for care and support, determine eligibility and make arrangements for meeting those assessed needs of adults and carers in accordance with the

Council's statutory duties under the Social Services and Well-Being (Wales) Act 2014

11. To exercise the Council's functions under Part 4 of the Social Services and Well-Being (Wales) Act 2014 to maintain and review care and support plans to meet the assessed needs of adults and carers.
12. To exercise the Council's functions under Section 15 of the Social Services and Well-Being (Wales) Act 2014 in providing or arranging preventative services, to include delaying the need for care and support, minimizing the effect on disabled persons of their disabilities and preventing people from suffering from abuse and neglect.
13. To be responsible for discharging the Council's safeguarding role in relation to adults at risk in accordance with part 7 of the Social Services and Well-Being (Wales) Act 2014.
14. 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.
15. To authorise and approve the maintenance costs for the admission of any person to any residential accommodation.
16. 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 1983.
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. Within the arrangements for the hearing of representations and complaints in accordance with Part 10 of the Social Services and Well-Being (Wales) Act 2014 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.

## **Chief Officer – Social Care and Health**

### **In respect of regulatory and licensing functions:-**

**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. To serve Street Litter Control Notices under Part IV of the Environmental Protection Act 1990.

## Part 2

## Environmental Health

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 under the Public Health (Control of Disease) Act 1984 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 (s18); On behalf of the Proper officer, to issue a notice in writing to request a person to discontinue work (s20);
  - (ii) On behalf of the Proper Officer, to exclude from school a child liable to convey a notifiable disease (s21);
  - (iii) On behalf of the Proper officer, to require a list of pupils at a school having a case of notifiable disease (s22)
  - (iv) To exclude children from places of entertainment or assembly (s23)
  - (v) To prohibit certain work on premises where a notifiable disease exists (s28)
  - (vi) To cleanse or disinfect premises and destroy articles (s31)
  - (vii) 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 (s59).
  - (viii) Power of entry (s61)
5. To register:

- (a) persons and premises under s14 and s15 of the Local Government (Miscellaneous Provisions) Act 1982 relating to acupuncture, tattooing, ear piercing and electrolysis, and
  - (b) persons and premises under s19 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 s16 and s19 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 s19 (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 s16 (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) Riding Establishments Acts 1964 and 1970
    - b) Public Health (Control of Disease) Act 1984
    - c) Water Industry Act 1991
    - d) Local Government (Miscellaneous Provisions) Act 1976 and 1982

- e) Caravan Sites and Control of Development Act 1960 as amended by Local Govt. (Misc. Provisions) Act 1982
  - f) Control of Pollution Act 1974
  - g) Refuse Disposal (Amenity) Act 1978
  - h) Environment Act 1995
  - i) Sunday Trading Act 1994
  - j) Prevention of Damage by Pests Act 1949
  - k) European Communities Act 1972 and regulations made there under.
  - l) Antisocial Behaviour Act 2003, part 8 (High Hedges): Section 74 (Powers of entry)
  - m) Public Health Act 1936
  - n) Public Health Act 1961;
  - o) Health and Safety at Work etc., Act 1974;
  - p) Building Act 1984 (for drainage purposes)
  - q) Local Government (Miscellaneous Provisions) Act 1982 (for purposes of public entertainment licensing, acupuncture, tattooing, ear-piercing and electrolysis)
  - r) Food Safety Act 1990;
  - s) Environmental Protection Act 1990;”
  - t) Housing Act 2004
  - u) Animal Welfare Act 2006
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. (a) To obtain information about the emission of pollutants and other substances into the air under s79(2) of the Control of Pollution Act 1974.
- (b) To serve notices requiring information about air pollution under s80 of the Control of Pollution Act 1974.
- (c) To serve notices under s93 of the Control of Pollution Act 1974.
21. To take action under s20 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 s16 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 authorise officers under Part II of the Clean Neighbourhoods & Environment Act 2005.
24. To authorise officers under the Refuse Disposal Amenity Act 1978.
25. To authorise officers to serve a Litter Clearing Notice under Part IV of the Environmental Protection Act 1990.
26. To authorise officers under Part IV of the Environmental Protection Act 1990.
28. To authorise officers to serve Fixed Penalty Notices under section 47ZA of the Environmental Protection Act 1990.
29. To authorise officers under Part 6 Chapter 1 of the Clean Neighbourhoods & Environment Act 2005.
30. To exercise the Council's functions as contained in the Water Industry Act 1991 in relation to private water supplies.
31. 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.
32. 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.

33. To authorise officers to take action, including the service of notices under the following provisions of the Public Health 1936:

(a) s45 to remedy defective sanitary conveniences

(b) s50 to remedy overflowing and leaking cesspools

(c) s83 to remedy filthy or verminous premises

34. To authorise officers to take action, including the service of notices under s17 of the Public Health 1961 (repair of stopped up drains)

35. 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.

36. 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.

37. To authorise officers to discharge the local authority's functions under the Water Industry Act 1991, including the service of notices under s80 and enforcement action under any Regulations made thereunder.

38. To authorise officers to serve notices under s60 of the Control of Pollution Act 1974.

39. To authorise persons to serve notices under s4 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 (s5);

40. To authorise Food Law Enforcement Officers considered by the Head of Public Protection to be competent to discharge the general duties and powers of the Authority under the Food Hygiene Rating (Wales) Act 2013 and any regulations made thereunder.

41. To appoint authorised officers under the Sunbeds (Regulation) Act 2010 and any associated regulations:

- (a) to enter any premises at which the officer has reason to believe that a sunbed business is being carried on;
- (b) to carry out on those premises such inspections as the officer considers necessary for the purpose of the proper exercise of the officer's functions;
- (c) where the officer considers it necessary for that purpose, to require the production of any book, document or record (in whatever form it is held) and inspect it, and take copies of or extracts from it;
- (d) to take possession of any book, document or record which is on the premises (in whatever form it is held) and retain it for as long as the officer considers necessary for that purpose;
- (e) to require any person to give such information, or afford such facilities and assistance, as the officer considers necessary for that purpose.
- (f) To may make such purchases and secure the provision of such services as the officer considers necessary for the purpose of the proper exercise of the officer's functions and to undertake any such other powers as may be considered by the Head of Public Protection to be appropriate under any subsequent regulation made under the Act.

42. To authorise officers under the Anti-Social Behaviour, Crime and Policing Act 2014 to:-

- (a) To issue Community Protection Notices (CPN) (section 43)
- (b) To take remedial action in default of CPN (section 47)
- (c) To issue fixed penalty notices (sections 52 and 68)
- (d) To issue a Closure Notice (sections 76 and 77)

### **Trading Standards**

- 42. To exercise the registration and enforcement functions of the Council contained in the Explosives Act 1875.
- 43. 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.

- a To authorise officers to enter land, inspect and undertake enforcement action and/or take action in the public interest as appropriate pursuant to the:-

Accommodation Agencies Act 1953  
Administration of Justice Act 1970  
Agriculture (Miscellaneous Provisions) Act 1968  
Agriculture Act 1970 as it applies to Animal Feeding Stuffs and Fertilisers;  
Animal Boarding Establishments Act 1963  
Animal Health Acts 1981  
Animal Health and Welfare Act 1984  
Animal Welfare Act 2006  
Anti-Social Behaviour Act 2003  
Anti-Social Behaviour Crime & Policing Act 2014  
Cancer Act 1939  
Charities Acts 1992 and 2006  
Children and Families Act 2014  
Children and Young Persons (Protection from Tobacco) Act 1991;  
Clean Air Acts 1956 – 1993  
Clean Neighbourhood and Environment Act 2005  
Climate Change Act 2008  
Commons Registration Act 1965/2006  
Companies Act 2006  
Consumer Credit Act 1974 & 2006  
Consumer Protection Act 1987  
Consumer Rights Act 2015  
Control of Horses (Wales) Act 2014  
Copyright Designs and Patents Act 1988  
Courts and Legal Services Act 1990  
Countryside and Rights of Way Act 1990  
Criminal Justice Act 1982, 1988 and 1991  
Criminal Justice and Police Act 2001  
Criminal Justice and Public Order Act 1984  
Crossbows Act 1987  
Dangerous Wild Animals Act 1976  
Development of Tourism Act 1969  
Dogs Act 1906  
Education Reform Act 1988  
Energy Act 1976  
Enterprise Act 2002



Environment Act 1995  
Environmental Protection Act 1990  
Estate Agents Act 1979  
European Communities Act 1972  
Explosives Act 1875  
Factories Act 1961  
Fair Trading Act 1973  
Farm and Garden Chemicals Act 1967  
Financial Services Act 2012  
Firearms Act 1968  
Fireworks Act 2003  
Food Safety Act 1990  
Forgery and Counterfeiting Act 1981  
Fraud Act 2006  
Gambling Act 2005  
Hallmarking Act 1973  
Health Act 2006  
Health and Safety at Work Act 1974  
Highways Act 1980  
House to House Collections Act 1939  
Housing Act 2004  
Intoxicating Substances (Supply) Act 1985  
Knives Act 1997  
Legal Services Act 2007  
Licensing Act 2003  
Local Government Byelaws (Wales) Act 2012  
Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
Local Government Acts 1972 – 2003  
Malicious Communications Act 1988  
Medicines Act 1968  
Mock Auctions Act 1961  
Motorcycles Noise Act 1987  
Motor Vehicles (Safety Equipment for Children) Act 1991  
National Lotteries Act 1993  
Natural Environment and Rural Communities Act 2006  
Offensive Weapons Act 1996  
Olympic Symbol (Protection) Act 1995  
Performance of Animals (Regulations) Act 1925  
Pet Animals Act 1951  
Petroleum (Consolidation) Act 1928  
Psychoactive Substances Act 2016  
Police Reform and Social Responsibility Act 2011  
Prices Act 1974 and 1975  
Proceeds of Crime Act 2002  
Protection of Animals (Amendment) Act 2000

Regulation of Investigatory Powers Act 2000  
 Riding Establishments Acts 1964 to 1970  
 Road Traffic (Foreign Vehicles) Act 1972  
 Road Traffic Acts 1974 – 1988  
 Scrap Metal Dealers Act 2013  
 Slaughter of Poultry Act 1967  
 Sunbeds (Regulation) Act 2010  
 Sunday Trading Act 1994  
 Tattooing of Minors Act 1969  
 Theft Acts 1968 and 1978  
 Timeshare Act 1992  
 Tobacco Advertising and Promotion Act 2002  
 Town Police Clauses Act 1847  
 Trade Descriptions Act 1968  
 Trade Marks Act 1994  
 Trading Schemes Act 1996  
 Unsolicited Goods and Services Acts 1971 and 1975  
 Vehicles (Crime) Act 2001  
 Video Recordings Acts 2010  
 Weights and Measures Act 1985

45. Having obtained the agreement of the Monitoring Officer, to lay information in respect of offences under the Acts listed in paragraphs 27 to 39 above and the following:-

Enterprise Act 2002  
 Tobacco Advertising and Promotion Act 2002  
 Criminal Justice and Police Act 2001  
 Vehicle Crimes Act 2001  
 Licensing (Young Persons) Act 2000  
 Protection of Animals (Amendment) Act 2000  
 Knives Act 1997  
 Offensive Weapons Act 1996  
 Olympic Symbol (Protection) Act 1995  
 Clean Air Act 1993  
 National Lottery Act 1993  
 Malicious Communications Act 1988  
 Protection of Children (Tobacco) Act 1986  
 Energy Conservation Act 1981  
 Forgery and Counterfeiting Act 1981  
 Unsolicited Goods and Services Act 1975  
 Administration of Justice Act 1970  
 Development of Tourism Act 1969  
 Licensing Act 1964  
 Mock Auctions Act 1961

Protection of Animals (Anaesthetics) Act 1954  
Accommodation Agencies Act 1953  
Pet Animals Act 1951  
Dogs Act 1906 and Dogs (Amendment) Act 1928

And any other legislation within the ambit of the Trading Standards section.

46. 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 s47ZA of the Environmental Protection Act 1990
- (l) Officers under Part 6 Chapter 1 of the Clean Neighbourhoods & Environment Act 2005

### **Licensing**

47. No delegations have been made to specific officers under the Gambling Act 2005

48. In relation to the hackney carriage and private hire licensing functions, to approve applications for drivers' licences where they are unproblematic and/or reveal minor traffic offences and/or the applicants had not received any additional convictions/endorsements since the previous licences were issued.

49. To determine (including imposition of conditions) application for a Pleasure Boat Licence pursuant to s94 Public Health Amenities Act 1907

### **Building Regulations**

50. To deal with applications under the Building Regulations including relaxation, dispensation and enforcement thereof.

51. To serve notices and take any necessary action in respect of demolition works, dangerous buildings, walls, stands, trees, places, hoardings and other structures.

### **Private Sector Housing**

52. (a) To serve notices in respect of unfit houses under s189 and s264 of the Housing Act 1985.

(b) To serve repair notices under s190 of the Housing Act 1985.

(c) To authorise work in default of compliance with notices served under s190 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:
  - (i) Serving an Improvement Notice. (Housing Act 2004 s11 - s12)
  - (ii) Making a Prohibition Order (Housing Act 2004 s20 - s21)
  - (iii) Serving a Hazard Awareness Notice. (Housing Act 2004 s28 - s29)
  - (iv) Taking emergency remedial action. (Housing Act 2004 Section 40)
  - (v) Making an Emergency Prohibition Order. (Housing Act 2004 s43)
- (h) To suspend Improvement Notices and to review such Improvement Notices. (Housing Act 2004 s14)
- (i) To revoke or vary Improvement Notices and to suspend and review suspended Improvement Notices. (Housing Act 2004 s16)
- (j) To suspend Prohibition Orders and to review such Prohibition Orders. (Housing Act 2004 s23)
- (k) To revoke or vary Prohibition Orders and to suspend and review suspended Prohibition Orders. (Housing Act 2004 s25)
- (l) To serve an Overcrowding Notice. (Housing Act 2004 s139)
- (m) To revoke or vary Overcrowding Notice. (Housing Act 2004 s144)
- (n) To take enforcement action under Schedule 3 (works in default).  
- 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.Os. (Housing Act 2004 s232)
  - (r) To impose conditions relating to the management of a H.M.O. (Housing Act 2004 s67)
  - (s) To serve or decide not to serve a Temporary Exemption Notice. (Housing Act 2004 s62)
  - (t) To require a fee for H.M.O. licensing.
  - (u) To grant or refuse a H.M.O. licence. (Housing Act 2004 s.64)
  - (v) To vary or revoke a H.M.O. licence. (Housing Act 2004 s69 - 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 s73)
  - (x) To make an Interim and Final Management Order. (Housing Act 2004 s102 and s113)
  - (y) To authorise officers to enter premises to carry out work under Housing Act 2004 s131, 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 s.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 s243)
54. 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:
- (i) Serving an Improvement Notice. (Housing Act 2004 s11 - s12)
  - (ii) Making a Prohibition Order. (Housing Act 2004 s20 - s21)
  - (iii) Serving a Hazard Awareness Notice. (Housing Act 2004 s28 – s29)
  - (iv) Taking emergency remedial action. (Housing Act 2004 s40)
  - (v) 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.

### **General**

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

### **Licensing Act 2003**

56. 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
57. To consider and, where appropriate, agree the following applications where no police or other relevant representation is made:
- a. Application for personal licence
  - b. Application to dis-apply the requirement for a designated premises supervisor at community premises
  - c. Application for premises licence/club premises certificate
  - d. Application for provisional statement



- e. Application to vary premises licence/club premises certificate
  - f. Application to vary designated premises supervisor
  - g. Application for transfer of premises licence
  - h. Application for interim authorities
58. The authority to grant, refuse or vary licenses in respect of riding establishments.
59. Under the Mobile Homes (Wales) Act 2013, to issue site licences with conditions, as necessary; to serve the site owner a fixed penalty notice and/or compliance notice; to take emergency action; and the power to enter the site.
60. Under the Public Health (Control of Disease) Act 1984 (as amended by the Health and Social Care Act 2008) and Regulations made under the 1984 Act to enter premises (Sections 61 and 62) and 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)
61. Under the Health Protection (Local Authority Powers) (Wales) Regulations 2010:-
- a) 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)
  - b) 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)
  - c) To arrange disinfection or decontamination of things, premises on request of the owner (Reg. 4)
  - d) To arrange disinfection or decontamination of things on request of person with custody or control (Reg. 5)
  - e) To arrange disinfection or decontamination of premises on request of the owner (Reg. 6)
  - f) To arrange disinfection or decontamination of premises on request of tenant (Reg. 7)
  - g) To serve a notice to request co-operation for health protection purposes (Reg. 8)
  - h) To serve a notice to restrict contact with dead bodies (Reg. 9)
  - i) To serve a notice to restrict access to dead bodies (Reg. 10)

- j) To relocate, or cause to be relocated a dead body that is or may be infected or contaminated (Reg. 11)

62. Under the Health Protection (Part 2A Orders) (Wales) Regulations 2010:-

1. 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)
2. 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)
3. To determine information, as deemed necessary, to enable provision of the evidence required for a Part 2A application in relation to persons (Regulation 4)

63. Under the Petroleum Consolidation Act 1928 to grant or vary petroleum licences.

64. Under the Regulatory Enforcement and Sanctions Act 2008:-

- a) To enter into Primary Authority partnerships, considered on a case by case basis.
- b) To agree the provision of services to businesses.

65. 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 curriculum experiments outside the National Curriculum.
- (d) 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

- (a) To design and keep under review the Council's scheme of delegation in accordance with the Council's policies and any statutory requirements.
- (b) 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. (c) 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 – Resources**

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

#### **1. 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 is also be applicable for other land owned by the County Council including Welsh Church Trust and Education Trust land.

## **2. Recreation and Industry**

(a) To grant rent reduced or rent free periods, subject to the Council's appropriate policy.

(b) To serve notices to quit on tenants or lessees of industrial units.

3. 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).

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

## **Part 2**

### **Recreation and Industry**

1. To apply for regional development grants under the Industry Act 1972.

2. To deal with applications for occupation of the Council's industrial units.

3. To undertake (and apply) reviews of rent of the Council's industrial units.

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

1. Overall day to day management of the farming estate and other agricultural land owned by the County Council.

2. Farm improvements undertaken by tenants who require Landlords Consent/Permission.
3. Annual programme of farm improvements to be carried out by the Landlord as part of its planned maintenance and reinvestment.
4. Transfer and management of the milk quota between tenants
5. Preparation and annual revision of the County Farms Asset Valuation
6. Conservation and woodland management
7. Preparation and agreement of Service Level Agreements with other Departments of the County Council
8. Land drainage and water supply improvements
9. Agreement to apply for planning permission where required
10. Acquisition of office equipment and supplies
11. Agreeing to staffing and training needs
12. Health and Safety issues.

#### **Other land and buildings**

1. To assess and charge rents on new and existing dwellings acquired or provided by the Council.
2. To deal with applications for the hire of office premises in accordance with the policy of the Council.
3. To approve the assignment of leases.
4. To instruct valuers on rent review or lease renewal and to accept that valuation.
5. 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.
6. To serve notices of review of rent and notices to quit.



7. 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.

### **Human Resources**

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

### **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 Deputy Chief Executive.

### SCHEDULE

	Function	Proper Officer	Deputy
1	<p>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:</p> <p>(a) Clerk or Town Clerk</p> <p>(b) Engineer or Surveyor</p> <p>(c) Public Health Inspector</p> <p>(d) Housing Officer</p>	<p>Chief Executive</p> <p>Head of Operations</p> <p>Chief Officer – Social Care and Health</p> <p>Deputy Chief Executive</p>	Deputy Chief Executive
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)</p> <p>Witness and receipt of declarations of acceptance of office</p>	<p>Head of Finance</p> <p>Head of Operations</p> <p>Chief Executive</p>	Monitoring Officer

	<p>- s.84 Receipt of declaration of resignation of office</p> <p>- s.88 (2) Convening of meeting of Council to fill casual vacancy in the office of Chairman</p> <p>- s.89 (1) (b) Receipt of notice of casual vacancy from two local government electors</p> <p>- s.96 (1) Receipt of notices of pecuniary interest</p> <p>- s.96 (2) Keeping record of disclosures of pecuniary interest under Section 94, and of notices under Section 96(1)</p> <p>- s.100B (2) Exclusion of reports likely to be considered in private session</p> <p>- s.100B (7) (c) Supply of papers to press</p> <p>- s.100C (2) Inspection of minutes and other documents</p> <p>- s.100D (1) (a) Compilation of lists of background papers</p> <p>- s.100D (5) (a) Identification of background papers</p> <p>- s.100F (2) Identification of papers disclosing certain exempt information (rights of members to inspect)</p> <p>- s.115 (2) Receipt of money due from officers</p> <p>- s.146 (1)(a)&amp;(b) Declarations and certificates with regard to securities</p> <p>- s.191</p>	<p>Chief Executive</p> <p>Monitoring Officer</p> <p>Relevant Chief Officer</p> <p>Deputy Chief Executive</p> <p>As s100B(2)</p> <p>As s100B(2)</p> <p>Relevant Chief Officer</p> <p>S151 Officer</p> <p>S151 Officer</p>	<p>Deputy Chief Executive</p>
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	<p>Functions with respect to ordnance survey</p> <p>- s.204(3)) Receipt of applications for Licence under Schedule 2, Licensing Act 1964</p> <p>- s.210(6)(7) Officer for the purpose of certain charities</p> <p>- s.225(1)&amp;(2) Deposit of documents, and on behalf of a community without a Community Council.</p> <p>- s.229(5) Certification of photographic copies of documents</p> <p>- s.234(1)(2) Authentication of documents</p> <p>s.236(9)(10) Officer to send copies of bylaws</p> <p>- s.238 Certification of byelaws</p> <p>Schedule 12 paragraph (2)(b) signature of summonses to Council meetings</p> <p>Schedule 14 paragraph 25(7) Certification of resolutions under paragraph 25</p> <p>Schedule 16 paragraph 28 Receipt on deposit of lists of protected buildings</p> <p><u>In the Local Government Act 1974</u></p> <p>- s.30(5) Publication of reports of Local Commissioner</p> <p><u>In the Local Government (Miscellaneous Provisions) Act 1976</u></p>	<p>Head of Operations</p> <p>Monitoring Officer</p> <p>Chief Executive</p> <p>Monitoring Officer</p> <p>Monitoring Officer</p> <p>Monitoring Officer</p>	
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	<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>Monitoring Officer</p> <p>Chief Officer Social Care and Health</p>	<p>Named Environmental Health and other Officers as may be approved by the Environmental Health Manager as competent and duly authorised.</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>Chief Executive</p> <p>Chief Executive</p> <p>Monitoring Officer</p>	
3	<p>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</p>	<p>The officer to whom the function is delegated</p>	

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	Monitoring Officer	Deputy Head of Legal Services or a Solicitor employed by the Council

**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	
	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	Trading Standards Team Leader	
5	Officers authorised to sign certificates under the Local Government (Contracts) Act 1997	Monitoring Officer	

## **\*PART 4 – RULES OF PROCEDURE (D)**

### **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. Remote Attendance
10. Questions by the public
11. Questions by members
12. Motions on notice
13. Motions without notice
14. Rules of debate
15. State of Monmouthshire debate
16. Previous decisions and motions
17. Voting
18. Minutes
19. Record of attendance
20. Petitions
21. Exclusion of public
22. Members' conduct
23. Disturbance by public
24. Filming and Use of Social Media during Meetings
25. Suspension and amendment of Council Procedure Rules
26. Application to committees and sub-committees
27. Appointment of Substitute Members on Council Bodies
28. Procedure Rules for Family Absence for Members



The Council Procedure Rules contained in the Sections below will apply to meetings of the Full Council.

## **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 Chair and Vice Chair of the Council are not present;
- (ii) elect the Chair of the Council;
- (iii) elect the Vice Chair of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chair and/or the Head of Paid Service;
- (vi) 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;
- (vii) be informed by the Leader of the number of Members to be appointed to the Cabinet;
- (viii) 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 Part 3 of this Constitution);
- (ix) determine which political group shall nominate the chair of each Select Committee appointed under (viii) above, having regard to the guidance issued under the Local Government (Wales) Measure 2011;
- (x) receive from the Leader the scheme of delegations (as set out in Part 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 and sub-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) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## 2. 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:

- (i) elect a person to preside if the Chair and Vice Chair 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 Chair, Leader, members of the cabinet or the Head of Paid Service;
- (v) receive a report from the Leader and receive questions and answers on the report;
- (vi) receive a report from the Cabinet and receive questions and answers on the report;
- (vii) receive reports from the Council's committees and receive questions and answers on those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (ix) 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;
- (x) consider motions; and
- (xi) deal with questions from Members in accordance with Rule 11
- (xii) 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.

## 3. Extraordinary Meetings

### 3.1 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.

### 3.2 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. 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(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 where appointed under paragraph 4(i) or (ii)) by giving notice in writing to the Chief Executive.

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 decisions 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, Place and Duration of Meetings**

The time and place of meetings will be determined by the Proper Officer and notified in the summons.

#### **6. 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 (below). 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.

#### **7. Chair of Meeting**

7.1 The person presiding at the meeting may exercise any power or duty of the Chair. 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.

7.2 Accordingly, if it appears appropriate, the Chair may, at his/her sole discretion waive compliance with the rules of debate set out in Rule 14 to facilitate the transaction of business at the meeting.

7.3 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.

## 8. Quorum

8.1 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.

8.2 In the case of the Planning Committee, the quorum must be 50% - the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017.

8.3 In respect of meetings where remote attendance is permitted, the quorum is 30% of the whole number of members physically present in the meeting room – Section 4(4) Local Government Measure 2011.

## 9. Remote Attendance

9.1 Remote attendance at meetings of the council will only be permitted where the conditions of section 4(3) of the Local Government Measure 2011 are met which means any member attending a meeting remotely (the “remote attendee”) must when they are speaking, be able to be seen and heard by the members who are attending the meeting at the place where the meeting is held (“members in actual attendance”) and the remote attendee must, in turn, be able to see and hear those in actual attendance. In addition, a remote attendee must be able to be seen and heard by, and in turn see and hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting. If there is more than one remote location, all the members attending remotely must be able to hear, but not necessarily see, the other remote attendees.

9.2 Members wishing to attend remotely must give at least 4 days’ notice of their wish to the Head of Democratic Services. On receiving such a notice, the Head of Democratic Services will make the necessary arrangements (including the provision of translation) to allow the member to attend remotely if that is possible.

9.3 The failure of any technological provision whether that leads to a partial or complete loss of contact between the remote attendees and those members in actual attendance during the meeting shall not invalidate any part of the deliberations or any vote taken. The Chair may postpone the meeting if they deem that appropriate.

## 10. Questions by the Public

### 10.1 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.

### **10.2 Order of Questions**

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

### **10.3 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 midnight seven working days before the day of the meeting. Each question must give the name and address of the questioner.

### **10.4 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.

### **10.5 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.

### **10.6 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.

### **10.7 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.

### **10.8 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 10.5 above.

### **10.9 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.

### **10.10 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.

## **11. Questions by Members**

### **11.1 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

### **11.2 Questions on Notice at Full Council**

Subject to Rule 11.4, a Member of the Council may ask:

- (a) the Chair;
- (b) 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.

### **11.3 Questions on Notice at Committees and Sub-Committees**

Subject to Rule 11.4, 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.

### **11.4 Notice of Questions**

A Member may ask a question under Rule 11.2 or 11.3 if either:

- (a) they have given at least seven working days' notice in writing of the question to the Head of Democratic Services (calculated on the basis of a working day running from midnight to midnight); 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.

### **11.5 Order of Questions**

Questions of which notice has been given under Rule 11.2 or 11.3 will be listed on

the agenda in the order determined by the Chair of the Council, committee or sub-committee.

### **11.6 Content of Questions**

Questions under Rule 11.2 or 11.3 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.

### **11.7 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.

### **11.8 Supplementary Question**

A Member asking a question under Rule 11.2 or 11.3 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.

### **11.9 Length of Speeches**

A Member asking a question under Rule 11.2 or 11.3 shall not speak other than in exercise of their right to ask a supplementary question under Rule 11.8 and a Member answering such a question may speak for no longer than three minutes unless the Chair consents to a longer period.

## **12. Motions on Notice**

### **12.1 Notice**

Except for motions which can be moved without notice under Rule 13 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 seventh 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.

### **12.2 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.

### **12.3 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.

### **12.4 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.

(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.

### **13. Motions without Notice**

The following motions may be moved without notice:

- (a) to appoint a Chair 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 Procedure 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.

### **14. Rules of Debate**

#### **14.1 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.

#### **14.2 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.



### 14.3 **Seconders' Speech**

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

### 14.4 **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.

### 14.5 **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.

### 14.6 **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 14.6 (a) (ii) to 14.6 (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.

#### 14.7 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.

#### 14.8 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.

#### 14.9 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.

#### 14.10 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 22.3 or to exclude them from the meeting under Rule 22.4.

#### 14.11 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 ask 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.

#### **14.12 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.

#### **14.13 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.

### **15. State of the County Debate**

#### **15.1 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.

#### **15.2 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.

#### **15.3 Chairing of Debate**

The debate will be chaired by the Chair.

#### **15.4 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.

## **16. Previous Decisions and Motions**

### **16.1 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.

### **16.2 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.

## **17. Voting**

### **17.1 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.

### **17.2 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.

### **17.3 Method of Voting**

Unless a recorded vote is demanded under Rule 17.4 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.

### **17.4 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.

### **17.5 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.

### **17.6 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.

## **18. Minutes**

### **18.1 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.

### **18.2 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.

### **18.3 Form of Minutes**

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

## **19. 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.

## **20. Presentation of Petitions**

20.1 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.

20.2 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.

20.3 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.

20.4 Petitions shall be presented in the order in which notice of them is received by the Chief Executive.

20.5 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.

## **21. Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules of this Constitution or Rule 23

(Disturbance by Public).

## **22. Members' Conduct**

### **22.1 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.

### **22.2 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.

### **22.3 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.

### **22.4 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.

## **23. Disturbance by Public**

### **23.1 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.

### **23.2 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.

## **24. 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.

## **25. Suspension and Amendment of Council Procedure Rules**

### **25.1 Suspension**

All of these Council Rules of Procedure except Rule 17.4 and 18.2 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.

## 25.2 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.

## 25.3 Adjustment

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.

## 26. 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, save as set out in the Executive Procedure Rules. Only Rules 5 to 8, 11 to 14, 16 to 25 (but not Rule 22.1) apply to meetings of committees and sub-committees.

## 27. Appointment of Substitute Members on Council Bodies

27.1 The substitution rules will not apply to meetings of the Cabinet, the Standards Committee, **the Planning Committee** or the Audit Committee.

27.2 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.

27.3 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.

27.4 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.

27.5 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.

27.6 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.

## 28. Procedure Rules for Family Absence for Members

### 28.1 Different Types of Family Absence

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) New-born 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 new-born absence, adopter’s absence or new adoption absence), for a period of up to three months.

### **28.2 Prescribed Conditions**

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.

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

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.

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

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.

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

- (a) 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.



(b) 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.

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

(a) 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.

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

(c) 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.

(d) The decision of the Panel is final.

#### **28.7 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.*

(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.

### **28.8 Continuing Duties**

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 to attend a meeting if it might otherwise be inquorate.

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).

### **28.9 Members’ Salaries**

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 five clear days' notice unless to consider urgent items as defined of any meeting by posting details of the meeting at County Hall Usk. (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 five 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 from 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).	Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered under —  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.  Public interest test applies (see below)
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)

CATEGORY	QUALIFICATION
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> <p>9. Information which relates in any way 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</p>	Public interest test applies (see below)

CATEGORY	QUALIFICATION
any finding on a matter referred to it.”.	

**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 other 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 5 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 paragraph 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.

### 17.4 Other Rights of Members

Notwithstanding any restriction in the foregoing provisions, all reports (including those that are “exempt” or “confidential” by virtue of Schedule 12A Local Government Act 1972 as amended) to all decision making bodies are available to all members.

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.

# 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

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 Part 3 to this Constitution. This will contain the following information about Executive Functions in relation to the coming year:

- (a) the names, addresses and electoral divisions of the people appointed to the executive by the Leader;
- (b) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (c) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
- (d) the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements;
- (e) 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 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.
- (b) 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.
- (c) 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) 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.

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.

#### **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. 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 Part 5 of this Constitution.
- (b) 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 in Part 5 of this Constitution.

#### **1.6 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.

#### **1.7 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.

#### **1.8 Quorum**

- (a) The quorum for a meeting of the Cabinet shall be three including the Leader or Deputy Leader.
- (b) The quorum for a meeting of a committee of the Cabinet shall be a quarter of the number of members of the committee.

- (c) In respect of meetings where remote attendance is permitted, the quorum is 30% of the whole number of members physically present in the meeting room – Section 4(4) Local Government Measure 2011.

### 1.9 Remote Attendance

Remote attendance at meetings of the Cabinet will only be permitted where the conditions of section 4(3) of the Local Government Measure 2011 are met which means any member attending a meeting remotely (the “remote attendee”) must when they are speaking, be able to be seen and heard by the members who are attending the meeting at the place where the meeting is held (“members in actual attendance”) and the remote attendee must, in turn, be able to see and hear those in actual attendance. In addition, a remote attendee must be able to be seen and heard by, and in turn see and hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting. If there is more than one remote location, all the members attending remotely must be able to hear, but not necessarily see, the other remote attendees.

- (a) Members wishing to attend Cabinet remotely must give at least 4 days’ notice of their wish to the Head of Democratic Services. On receiving such a notice, the Head of Democratic Services will make the necessary arrangements (including the provision of translation) to allow the member to attend remotely if that is possible.
- (b) The failure of any technological provision whether that leads to a partial or complete loss of contact between the remote attendees and those members in actual attendance during the meeting shall not invalidate any part of the deliberations or any vote taken. The Chair may postpone the meeting if they deem that appropriate.

#### 1.10 How are Decisions to be taken by the Cabinet?

- (a) 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 Part 4 of this Constitution.
- (b) 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.

## 2. HOW ARE THE EXECUTIVE MEETINGS CONDUCTED?

### 2.1 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.

### 2.2 Who May Attend?

These details are set out in the Access to Information Procedure Rules in Part 4. See also Section 3 in relation to Member participation in meetings.

### 2.3 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 Select Committee Procedure Rules or the Budget and Policy Framework Procedure Rules set out above;
- (c) consideration of reports from Select Committees;
- (d) consideration of reports from Cabinet Committees;
- (e) reports from Officers of the Authority.

### 2.4 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.

### 2.5 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.

### 2.6 Disturbance by the Public, Filming and Use of Social Media

The provisions in Council Procedure Rules in Part 4 in relation to disturbance by the public, filming and use of social media apply to meetings of the Cabinet.

## SELECT COMMITTEE PROCEDURE RULES

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

1.01 The Council will have **five** Select Committees set out in the table in Article 6 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.

1.02 The Council will also establish a Co-ordinating Board to provide a link with the Executive and to consider matters of joint interest. It will comprise of the Chairman of each Select Committee; the Leader and Deputy Leader; the Chairman of each Area Committee; the Scrutiny Champion; the Chief Executive. The Chairman of the County Council will also be invited to attend. The Co-ordinating Board will have the following roles and functions:

- (a) To manage the business processes and the relationship between the constituent parts of the Council's business machinery.
- (b) To review Council, Cabinet and Committee work programmes with a view to improving co-ordination and avoiding duplication.
- (c) To enable Chairs to keep the Board informed of progress e.g. on Select Committee and other reviews.
- (d) To share best practice across Committees and identify training and development needs
- (e) To enable the Chief Executive to brief Chairs about forthcoming issues.

1.03 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;
- (e) convene joint meetings with overview and scrutiny committees of other councils; and
- (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.

## **2. Specific functions of Select Committees**

### **2.01 Policy development and review**

Select committees may:

- (a) assist the Council and the executive 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) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area; and
- (e) 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.

### **2.02 Scrutiny**

Select committees may:

- (a) 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;
- (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 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;
- (d) make recommendations to the executive 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 committee and local people about their activities and performance; and
- (f) question and gather evidence from any person (with their consent).

### **2.03 Finance**

Select committees may exercise overall responsibility for the finances made available to them.

### **2.04 Select Committees shall undertake the following:**

- (a) 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;
- (b) 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;
- (c) consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options;
- (d) question Cabinet Members and Officers about their views and actions on issues and proposals affecting the County;
- (e) 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
- (f) question and gather evidence from any person (with his/her consent) whilst conducting investigative and reporting processes.

#### **2.05 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.

#### **2.06 Officers**

Select committees may exercise overall responsibility for the work programme of the officers employed to support their work.

### **3. Who chairs Select Committee Meetings?**

Each Select Committee will be Chaired by a Chair appointed from the membership of that Select Committee

### **4. Who may sit on Select Committees?**

There will be cross party Membership of all 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.

### **5. 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.

## **6. Quorum**

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

## **7. Agenda Items**

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.

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.

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.

## **8. Policy Review and Development**

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 above.

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.

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.

## **9. Reports from the Select Committees**

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 (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

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.

The Council or Cabinet shall consider the report of a Select Committee within one month of it being submitted to the Proper Officer.

#### **10. Making sure that Overview and Scrutiny Reports are considered by the Cabinet**

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 three months, the Cabinet will give an explanation of the reasons to the Chair of the relevant Select Committee as soon as practicable.

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 three months 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.

#### **11. Rights of Members of the Select Committees to Documents**

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.

Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Select Committee as appropriate depending on the particular matter under consideration.

#### **12. Members and Officers Giving Account**

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.

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.

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.

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.

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.

### **13. Attendance by Others**

Select Committees may invite people other than those people referred to in paragraph 12 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.

### **14. Call-In**

- (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 two 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 call-in a decision.
- (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 (as adjudicated by the Head of Paid Service) all Members requesting a matter be called in must attend the meeting at which the matter is being considered. The relevant cabinet member or, in their absence, the Leader or a deputy leader should also attend.

### **Call-In and Urgency**

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. 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 is unable to act, then the agreement of the Head of Paid Service of the Council, will suffice. The Head of Paid Service 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 at the next available meeting of the Council, together with the reasons for urgency.

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.

### **15. 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.

### **16. Procedure at Select Committee Meetings**

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.

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.

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.

#### **17. 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.

#### **18. Councillor Call for Action**

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”.

Any Member may request that an item is placed on the agenda of an Select Committees for consideration.

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 Select Procedure Rules**  
**Councillor Call for Action - Guidance for Councillors**

**INTRODUCTION**

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 .

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.

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.

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.

**HOW SHOULD I NORMALLY ATTEMPT TO RESOLVE A LOCAL ISSUE IN MY AREA?**

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:

- 1)informal discussions with Officers or other councillors;
- 2)informal discussions with partner representatives;
- 3)referral to other “scrutiny” bodies such as Community Health Councils or internal audit committee;
- 4)formal discussions with Officers and councillors;
- 5)formal letters to the Cabinet Members;
- 6)asking questions at Full Council;
- 7)submitting a motion to Full Council;
- 8)organising public meetings;
- 9)use of petitions;
- 10) making a complaint;
- 11) questions at Full Council
- 12) freedom of information requests;

- 13) communication with local AMs or MPs;
- 14) use of social media or email based campaigns.

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 .

### **WHAT IS A COUNCILLOR CALL FOR ACTION**

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.

A Councillor does not however need a referral from a constituent in order to start the process. It is important to recognise that 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.

### **HOW AND WHEN SHOULD I MAKE A CCFA**

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 the Head of Democratic Services. 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.

The Proper Officer will confirm whether or not the referral satisfies the requirements outlined 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.

### **CRITERIA TO BE FOLLOWED BY A SELECT COMMITTEE**

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 Committee:

- i) 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?
- ii) Has that Select Committee considered a similar issue recently? If so, have the circumstances or evidence changed?

- iii) 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.
- iv) 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?
- v) Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- vi) Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- vii) Is the matter an issue of genuine local concern which impacts on the local community rather than a personal matter?
- viii) Is this an issue currently being looked at by another form of local scrutiny?
- ix) 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.

If a Select Committee decides not to accept the CCfA it must inform the councillor of the decision and the reasons for it.

If a Select Committee decides to accept the CCfA the Councillor will be informed and advised of the agreed Protocol, e.g. 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:

- (i) asking the relevant responsible authorities to respond to the CCfA;
- (ii) setting up a research or task and finish group to undertake a more in-depth review;
- (iii) 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.

### **POTENTIAL OUTCOMES FROM A CCFA**

A Select Committee could:

- (i) determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- (ii) write a response and make recommendations on the CCfA to a relevant responsible authority;
- (iii) decide that further action is not appropriate giving its reasons.

Once a Select Committee has completed its work, the Councillor who made the referral will receive a copy of any response or recommendations made.

### **TIMESCALES FOR DEALING WITH A CCFA**

In exceptional circumstances, for example where there are unavoidable time constraints, a special Select Committee meeting may be convened.

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.

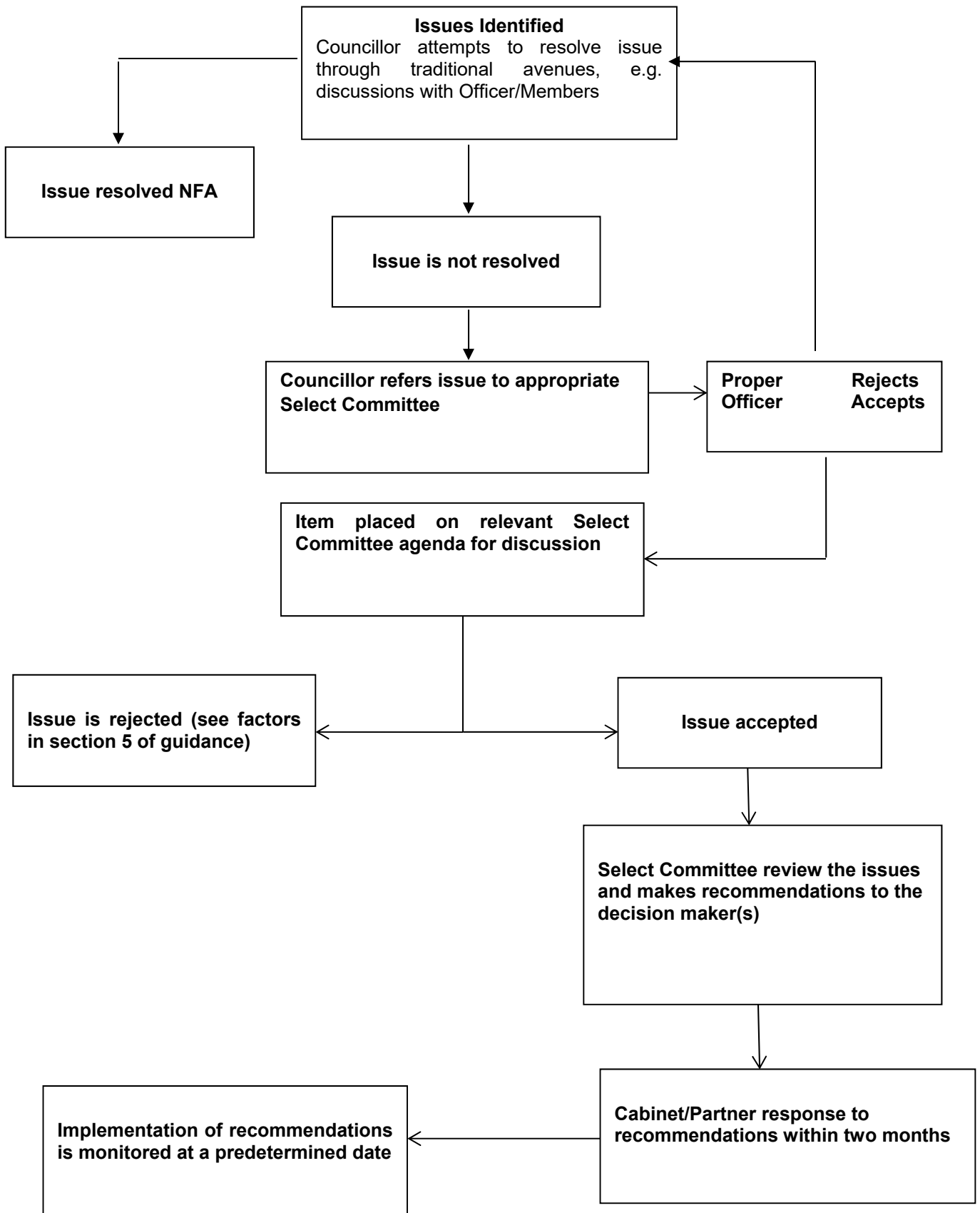
Select Committees will monitor implementation of any recommendations as part of their Forward Work Programme.

### **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.



ANNEX A TO APPENDIX 1 Flow Chart for Councillor Call for Action



**ANNEX B to Appendix 1: Call for Action Referral**

<b>For the attention of (name and title of Proper Officer)</b>	
<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.	<i>Informal discussions with Officers or other councillors</i> <i>Informal discussions with partner representatives</i> <i>Referral to other "scrutiny" bodies such as Community Health Councils or internal audit committee</i> <i>Formal discussions with Officers and councillors</i> <i>Formal letters to the Cabinet Members</i> <i>Asking questions at Full Council</i> <i>Submitting a motion to Full Council</i> <i>Organising public meetings</i> <i>Use of petitions</i> <i>Making a complaint</i> <i>Questions at Full Council</i> <i>Freedom of Information requests</i> <i>Communication with local AMs or MPs</i> <i>Use of social media or email based campaigns</i>
<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.	
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1. The following criteria will be taken into consideration when a Select Committee decide whether to progress with your CCfA:

- 1.1 Have all reasonable attempts been made to resolve the issue? Do the responses received by you demonstrate that the matter is not being progressed?
- 1.2 Has the committee considered a similar issue recently – if yes have the circumstances or evidence changed?
- 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 LCDR hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- 1.4 Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response have you received?
- 1.5 Is this a case that is being or should be pursued via the Council’s corporate complaints procedure?
- 1.6 Is it relating to a “quasi-judicial” matter or decision such as planning or licensing?
- 1.7 Is the matter an issue of genuine local concern, which impacts on the local community rather than a personal matter?
- 1.8 Is this an issue currently being looked at by another form of local scrutiny?
- 1.9 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.

2. 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.

# FINANCIAL PROCEDURE RULES

(Financial Standing Orders and Financial Regulations)

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## SECTION 1 – STATUS

- 1.1 Financial Procedure Rules provide the framework for managing the Authority's financial affairs, and are part of Monmouthshire Council's constitution. They apply to every member and officer of the Authority, and anyone acting on its behalf.
- 1.2 The purpose of the Financial Procedure Rules is to ensure that public accountability and high standards of financial integrity are exercised in the control of public funds that pass through the Authority. The Financial Procedure Rules govern the day to day operation of the Authority's financial administration. They are introduced both to protect the interests of the Authority, and all those who are involved with financial administration.
- 1.3 All members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 1.4 The Section 151 Officer (Head of Finance) is responsible for maintaining a continuous review of the Financial Procedure Rules, and for submitting any additions or changes necessary to Council for approval. The Section 151 Officer (Head of Finance) is also responsible for reporting, where appropriate, any breaches of Financial Procedure Rules. In the event of dispute as to the meaning of any of the provisions of the Financial Procedure Rules the matter shall be determined by the Section 151 Officer (Head of Finance) whose decision shall be final.
- 1.5 Where in the Financial Procedure Rules, an officer is designated by reference to his /her job title, the responsibilities shall relate to the post holder. Such an officer may arrange for officers under his/her supervision or management to carry out any of the obligations, duties or activities required to be performed by him/her under the Financial Procedure Rules, or to act in his/her absence, provided that the named post holder shall retain responsibility to the Authority.
- 1.6 The Section 151 Officer (Head of Finance) is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that members, officers and others acting on behalf of the Council are required to follow.
- 1.7 Chief Officers and Heads of Service are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Authority's Financial Procedure Rules, and guidance documents issued by the Section 151 Officer (Head of Finance), and that they comply with them. Failure to comply with the Financial Procedure Rules, or the instructions issued under them, or any arrangements made for the purposes of them, will constitute misconduct, possibly gross misconduct.
- 1.8 Other related documents approved by the Authority include the Constitution, Delegations, Contract Procedure Rules and Codes of Conduct.
- 1.9 The Head of Finance is responsible for promoting the same high standards of conduct in the management of partnerships as with the Council. Chief

Officers and Heads of Service are responsible for ensuring that the Council's interests are protected in such arrangements and that appropriate advice is taken at all stages.

- 1.10 The default position is that any external arrangements will be subject to the Council's Financial Procedure Rules, unless specific approval has been granted by Cabinet to do otherwise.

## SECTION 2 – FINANCIAL MANAGEMENT

- General
- Managing Expenditure
- Treatment of Year End Balances
- Accounting Policies
- Accounting Records and Returns
- Annual Statement of Accounts

### GENERAL

#### Why is this Important?

- 2.1 Financial management covers all financial accountabilities in relation to the running of the Authority, including the budget and policy framework. All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

#### Key Controls

- 2.2 The key controls for financial management are:-
- to ensure their promotion of proper financial management throughout the Authority;
  - to have a system in place to review compliance with financial standards.

#### Responsibilities of the Section 151 Officer (Head of Finance)

- 2.3 To be responsible, for the purposes of Section 151 of the Local Government Act, 1972 and Section 114 of the Local Government Finance Act, 1988, for the proper administration of the Authority's financial affairs. To adhere to the Statement on the role of the Chief Finance Officer in Local Government (CIPFA).

- 2.4 As the Authority's financial adviser, to:-
- report to the Cabinet and the Council on resource availability and resources allocation.
  - advise the Cabinet and the Council of the financial implications and risks of proposals submitted to them.
  - keep the Cabinet and the Council informed with respect to the Authority's finances and financial performance and other committees informed with respect to financial implications of their activities.
  - advise on financial systems and procedures for all service areas of the Authority including advice to the Cabinet and the Council if inadequate systems exist.
  - advise and participate in all aspects of Value For Money projects.



- advise the Cabinet and the Council on the financial aspects of all policy matters.
- 2.5 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards of finance staff throughout the Authority. To ensure that finance staff are competent to perform the responsibilities that they are assigned.
- 2.6 The Section 151 Officer (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, officer or partnership in 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;
- 2.7 He/ she shall also make such a report if it appears to him /her that the expenditure of the Authority incurred (and proposed to incur) in a financial year is likely to exceed the resources available to meet that expenditure.

### **Responsibilities of Chief Officers and Heads of Service**

- 2.8 To ensure that the Financial Procedure Rules are followed and brought to the attention of all employees in their service areas.
- 2.9 To be responsible, in consultation with the Section 151 Officer (Head of Finance) for:
- the financial administration of their service areas, including trading accounts, in compliance with the Financial Procedure Rules;
  - the monitoring and control of expenditure against their service area capital and revenue budgets.
  - the design and operation of systems of internal control capable of:
    - carrying out the activities of the Authority in an effective and efficient manner;
    - ensuring adherence to the Authority Policy Framework and Budget;
    - safeguarding assets;
    - securing, as far as possible the completeness and accuracy of records;
    - ensuring value for money and preventing waste;
    - identifying and reporting of financial risks.

- 2.10 To agree with the Section 151 Officer (Head of Finance) any amendment to financial systems or introduction of new financial systems.
- 2.11 To provide all information required by the Section 151 Officer (Head of Finance) for finance purposes on a timely basis, and to allow him/her or an authorised representative access to all information, records, documents and explanations that he/she requires.
- 2.12 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 2.13 To establish and maintain sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.
- 2.14 To allow the Section 151 Officer (Head of Finance) adequate opportunity (at least 5 working days) to provide written comments for inclusion in all reports for decision by the Council or the Cabinet or for the purpose of exercising delegated powers.
- 2.15 To consult with the Section 151 Officer (Head of Finance) with respect to any matter within his/her purview which is liable to materially affect the finances of the Authority, before any provisional or other commitment is incurred or before reporting thereon to the Cabinet or the Council.
- 2.16 To inform the Section 151 Officer (Head of Finance) when officers intend to meet with representatives of Government Service areas or outside bodies on matters which may involve current or future financial or economic proposals and be given the opportunity of being represented or advised of the proposals as the Section 151 Officer (Head of Finance) considers necessary.
- 2.17 To take action upon any internal audit reports to ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 2.18 To ensure that all employees who are responsible for financial administration are issued with appropriate instructions and periodic training as deemed necessary.
- 2.19 To ensure that there is a clear separation of duties within the administration of all processes to ensure adequate controls are in place.
- 2.20 To maintain proper records of authorising officers for all financial processes and to ensure that only these officers authorise key documents such as orders, invoices, claims and payroll records. Such records to be maintained by the system administrators in conjunction with Chief Officers.
- 2.21 To immediately notify the Section 151 Officer and the Chief Internal Auditor whenever any matter arises which involves, or is thought to involve, a breach of security, theft, or irregularities concerning cash, stores or other property of the Authority, or any suspected irregularity in the exercise of the functions of the Authority.

- 2.22 To liaise with the Chief Internal Auditor in relation to the investigation of any suspected irregularities within their service area, in line with the Authority's Anti-Fraud and Corruption Strategy.
- 2.23 To ensure that all employees comply with the Financial Procedure Rules and any instructions issued under them or any arrangements made for the purposes of them.
- 2.24 To ensure that any arrangements made under or for the purposes of the Financial Procedure Rules should be documented and where necessary conveyed in writing to relevant employees.
- 2.25 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

## **MANAGING EXPENDITURE**

### ***Virement and in-year changes to the budget***

#### **Why is this Important?**

- 2.26 The scheme of virement is intended to enable the Cabinet, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall budget and policy framework determined by the full Council, and therefore to optimise the use of resources.
- 2.27 Virement Guidelines are approved by Cabinet. There are different levels and types of budget virement that can occur, each requiring different levels of Member/Officer approval; this is outlined in the document.

#### **Key Controls**

- 2.28 Key controls for the scheme of virement are:
  - the overall revenue budget is drawn up by the Cabinet and approved by the full Council. Chief Officers and budget holders are, therefore, authorised to incur expenditure in accordance with the estimates that make up the budget as set out in the budget book. The rules below cover virement; that is, switching resources between approved cost centres:
  - virement does not create additional overall budget liability. Chief Officers and budget holders are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring revenue expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets;
  - the capital programme is drawn up by the Cabinet and approved by the full Council and contains details of approved expenditure on capital schemes.

## Responsibility of the Cabinet

2.29 To approve revenue and capital budget virements outside of the delegations identified below:

### Revenue Virement Authorisation Levels

Category	Virement	Authorisation
Cost Centre	Same Directorate/Corporate Area – Same Division	Up to £50k - Relevant Service Manager in consultation with Relevant Chief Officer/Head of Service Between £50k - £250k – Relevant Chief Officer/Head of Service Over £250k – Cabinet
	Same Directorate/Corporate Area – Different Division	Under £250k - Relevant Chief Officer/Head of Service, with consultation with relevant Service managers Over £250k – Cabinet
	Different Directorate/Corporate Area – No Reserve Funding Impact	Under £250k - Relevant Chief Officers/Heads of Service, with consultation with relevant Service managers Over £250k - Cabinet
	Different Directorate/Corporate Area – Reserve Funding Impact	Cabinet upon recommendation of Head of Finance
Account Code	Between Indirect Codes	Up to £50k - Directorate Finance Manager (CEO's, Enterprise and Operations) Over £50k - Assistant Head of Finance (Accountancy)
	Between Direct Codes	Up to £50k - Respective Directorate Finance Managers for Directorate Budgets and Central Finance Manager for Corporate Areas Over £50k - Assistant Head of Finance (Accountancy)
	Between Indirect and Direct Codes	Head of Finance

Project Codes and other lower level codes	All	Respective Directorate Finance Manager for Directorate Budgets and Finance Manager Central Accountancy for Corporate Areas
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### Responsibilities of Chief Officers and Heads of Service

- 2.30 In consultation with the Section 151 Officer (Head of Finance) to vire, within service areas, sums not exceeding £250,000 provided under specific published revenue budget heads to other purposes (revenue only).
- 2.31 To refer to the Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A recommendation will be prepared by the appropriate Chief Officer or Head of Service, in consultation with the Section 151 Officer (Head of Finance).
- 2.32 No virement may be approved if it is anticipated to introduce overspend to either the service area or total cash limited budget of the Heads of Service.

### Section 151 Officer (Head of Finance)

- 2.33 To consult with the appropriate Chief Officer or other Head of Service, to vire sums, within their service area and within the limits as outlined in these Financial Procedure Rules.
- 2.34 To refer to the Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A recommendation will be prepared by the appropriate Chief Officer or Head of Service, in consultation with the Section 151 Officer (Head of Finance).
- 2.35 To recommend to Cabinet the use of reserves and to commit expenditure in future years up to a total of up to £1m and to ensure that appropriate records are kept and maintained.
- 2.36 No virement may be approved if it is anticipated to introduce overspend to either the service area or total cash limited budget of the Head of Service.

### Capital Virement Authorisation Levels

Form	Scheme Categories	Virement Type	Authorisation
Cap 2a	<ul style="list-style-type: none"> <li>Property Maintenance</li> <li>Infrastructure Maintenance</li> <li>GF Renovation Grants</li> </ul>	Virement <u>within</u> each category Virement <u>between</u> financial years <u>within</u> each category	Virements up to £50k – Service Manager responsibility Virements over £50k - Relevant Chief Officer/Head of Service
Cap 2b	IT schemes	Virement <u>within</u> this category including virement between financial years	Relevant responsible Chief Officer/Head of Service in consultation with

			Head of Finance, Cabinet Member and ICT Board
Cap 2c	<ul style="list-style-type: none"> <li>• Development schemes over £250k</li> <li>• Development schemes under £250k – All categories</li> <li>• Reserve Funded</li> <li>• Education Strategic Review</li> </ul>	Virement <u>within</u> and <u>between</u> these categories and between financial years	Virements affecting more than one member's portfolio require Cabinet approval Virements within a single member's portfolio require Single Member approval
Cap 2d	<ul style="list-style-type: none"> <li>• Specific Grant Funded</li> <li>• Section 106</li> <li>• Section 278</li> </ul>	Virements between categories and between financial years	Virements require Cabinet approval along with written notification of approval from the grant funding body, or relevant Section 106 or Section 278 Agreement where it doesn't accord with spirit of existing agreement
Cap 2e	All categories of scheme if the virement is not covered by forms 2a – 2d	Virements between categories and between financial years	Virements require Cabinet approval

### Responsibilities of Chief Officers and Heads of Service

2.37 In consultation with the Section 151 Officer (Head of Finance), to vary within service areas the approved programme of capital expenditure by an addition or deletion or material modification of an existing project by a virement not exceeding £50,000 to or from another project but subject to the *medium term financial plan*.

2.38 To refer to the Cabinet for approval, virements provided under the specific published budget heads as per above table. A recommendation will be prepared, in consultation with the Section 151 Officer (Head of Finance).

### Responsibilities Section 151 Officer (Head of Finance)

2.39 To consult with the appropriate Head of Service, to vary within their service areas, the approved programme of capital expenditure, within the limits as outlined in these Financial Procedure Rules.

- 2.40 To refer to the Cabinet for approval, virements provided under the specific published budget heads as per table above. A recommendation will be prepared, in consultation with the Section 151 Officer (Head of Finance).
- 2.41 The Council sets a multi-year capital programme, with the latter years indicative only. In order to ensure an effective capital programme, expenditure can be brought forward only with the approval of the Section 151 Officer (Head of Finance). The possibility of delaying spend into future years may be required in some cases and should be observed following any request from the Section 151 Officer (Head of Finance).

#### **Responsibilities of Accountancy Staff in Respect of Virement Administration**

- 2.42 In all instances, a budget virement can only be actioned on the financial information system upon satisfaction by Accountancy Section that the above authorisations have been obtained.
- 2.43 Accountancy will check the forms. In particular they will need to make sure any financing implications are taken into account. If everything is in order they will make the necessary adjustments to the ledger and inform the relevant budget holders.
- 2.44 Accountancy will identify budget virements on the General Ledger. Expenditure and financing profiles will be adjusted in order to track expenditure and financing through the financial year and to assist in budget monitoring and forecasting.

#### **TREATMENT OF YEAR END BALANCES**

##### **Why is this Important?**

- 2.45 It is important to have a set of rules for the proper treatment of year end balances.

##### **Key Controls**

- 2.46 Appropriate accounting procedures are in operation to ensure that carried forward totals are correct.

#### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 2.47 To transfer to reserves any appropriate under-spending arising from the out-turn at financial year ends.
- 2.48 To report to the Cabinet and Council as part of the budget process on the Authority's financial standing.
- 2.49 In consultation with Chief Officers to approve carry forward of surpluses from internal trading units.

#### **Responsibilities of Chief Officers and Heads of Service**

- 2.50 Internal trading unit surpluses may be carried forward to the following year subject to approval by the Section 151 Officer (Head of Finance).

## **ACCOUNTING POLICIES**

### **Why is this Important?**

2.51 The Section 151 Officer (Head of Finance) is responsible for the preparation of the Authority's statement of accounts, in accordance with proper practices as set out in the format required by the relevant codes of practice on local authority accounting in the United Kingdom, for each financial year ending 31st March.

### **Key Controls**

2.52 The key controls for accounting policies are:

- systems of internal control are in place that ensure that financial transactions are lawful;
- suitable accounting policies are selected and applied consistently;
- proper accounting records are maintained;
- financial statements are prepared which present fairly the financial position of the Authority and its expenditure and income.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

2.53 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31st March each year, and covers such items as:

- separate accounts for capital and revenue transactions;
- the basis on which debtors and creditors at year end are included in the accounts;
- details on substantial provisions and reserves;
- fixed assets;
- depreciation;
- financial instruments;
- work in progress;
- stocks and stores;
- deferred charges;
- accounting for value added tax;
- government grants; and
- leasing.

### **Responsibilities of Chief Officers and Heads of Service**

2.54 To ensure they and their staff adhere to the accounting policies and guidelines approved by the Section 151 Officer (Head of Finance).



## **ACCOUNTING RECORDS AND RETURNS**

### **Why is this Important?**

2.55 Maintaining proper accounting records is one of the ways in which the Authority discharges its responsibility for stewardship of public resources. The Authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Authority's resources.

### **Key Controls**

- 2.56 The key controls for accounting records and returns are:
- finance staff and budget holders operate within the required accounting standards and timetables;
  - all the Authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
  - procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
  - reconciliation procedures are carried out to ensure transactions are correctly recorded;
  - prime documents are retained in accordance with legislative and other requirements.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 2.57 To determine the accounting procedures and records for the Authority.
- 2.58 To arrange for the compilation of all accounts and accounting records under his or her direction.
- 2.59 To comply with the following principles when allocating accounting duties:
- separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them;
  - officers with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 2.60 To make proper arrangements for the audit of the Authority's accounts in accordance with the current Accounts and Audit Regulations.
- 2.61 To ensure that all claims and returns required by Government Service areas and other bodies are processed through the grant review process as defined within the grants protocol for the Authority.
- 2.62 To prepare and publish the audited accounts of the Authority for each financial year, in accordance with the statutory timetable and with the requirement.

- 2.63 To determine the retention period of financial records where there are no requirements prescribed by statutory or other external regulations.

### **Responsibilities of Chief Officers and Heads of Service**

- 2.64 To consult and obtain the approval of the Section 151 Officer (Head of Finance) before making any changes to accounting records and procedures.
- 2.65 To comply with the following principles when allocating accounting duties:
- separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them;
  - employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 2.66 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 2.67 To ensure that the retention periods of financial records, as determined by the Section 151 Officer (Head of Finance), are complied with. Where retention periods are prescribed by statutory or other external regulations, the Head of Service should ensure that these are complied with.
- 2.68 To ensure that financial records are not disposed of other than in accordance with prescribed statutory requirements (as advised by the Council's Information Manager) and as approved by the Section 151 Officer (Head of Finance).
- 2.69 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Section 151 Officer (Head of Finance). Notable examples are lease agreement (or lease type arrangements) that the Authority has entered into, provisions and contingent liabilities that exist, significant post-balance sheet events, joint arrangements and partnerships that the Authority has entered into.

## **ANNUAL STATEMENT OF ACCOUNTS**

### **Why is this Important?**

- 2.70 The Authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year.

### **Key Controls**

- 2.71 The key controls for the annual statement of accounts are:
- the Authority is required to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for the administration of these affairs. In this Authority, that officer is the Section 151 Officer (Head of Finance);
  - the Authority's statement of accounts must be prepared in accordance with proper practices as set out in the relevant codes of practice on local authority accounting in the United Kingdom.

### **Responsibilities of Section 151 Officer (Head of Finance)**

- 2.72 To select suitable accounting policies and to apply them consistently.
- 2.73 To make judgements and estimates that are reasonable and prudent.
- 2.74 To comply with the relevant accounting code of practice.
- 2.75 To sign and date the statement of accounts, stating that it presents the financial position of the Authority as true and fair as at the accounting date for the year ended 31st March.
- 2.76 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.
- 2.77 To ensure that good quality audit working papers are provided to external audit in readiness for the agreed commencement of the audit.
- 2.78 To monitor progress with the completion of account closure to ensure that closure remains on track and in accordance with agreed timetables, as updated and revised during the course of closure.
- 2.79 To ensure that Members and Strategic Leadership Team are appropriately briefed to allow them to understand the accounts that are presented to them.

### **Responsibilities of Chief Officers and Heads of Service**

- 2.80 To comply with accounting guidance provided by the Section 151 Officer (Head of Finance), and to supply the Section 151 Officer (Head of Finance) with information in the format, and by the date, requested.

## SECTION 3 – FINANCIAL PLANNING

- Performance Plans
- Revenue Budgeting and Monitoring
- Capital Budgeting and Monitoring
- Maintenance of Reserves

### PERFORMANCE PLANS

#### Why is this Important?

- 3.1 The Authority has a statutory responsibility to publish various performance plans, in accordance with Local Government (Wales) *Measure 2009*. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. External audit is required to report on whether the Authority has complied with statutory requirements in respect of the preparation and Corporate Improvement Plan.

#### Key Controls

- 3.2 The Key Controls for performance plans are:
- to ensure that all relevant plans are produced and that they are consistent
  - to produce plans in accordance with statutory requirements
  - to meet the timetables set
  - to ensure that all performance information is accurate, complete and up to date
  - to provide improvement targets which are meaningful, realistic and challenging.

#### Responsibilities of the Section 151 Officer (Head of Finance)

- 3.3 To advise and supply, as appropriate and in conjunction with Chief Officers, the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- 3.4 To contribute to the development of corporate and service targets and objectives and performance information.
- 3.5 To ensure that systems are in place to measure activity and collect the accurate financial information required and to provide said financial information to Service Areas to calculate their respective performance indicators.

#### Responsibilities of Chief Officers and Heads of Service

- 3.6 To contribute to the development of performance plans in line with statutory requirements.
- 3.7 To contribute to the development of corporate and service targets and objectives and performance information.

- 3.8 To indicate to the Section 151 Officer (Head of Finance) the Financial Information required and to agree the methodology for calculation.
- 3.9 To ensure that adequate systems are in place to measure activity and collect accurate and timely non-financial information for use as performance indicators.
- 3.10 To advise and supply, as appropriate and in conjunction with the Section 151 Officer (Head of Finance), the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

## **REVENUE BUDGETING AND MONITORING**

### **Budget Format**

#### **Why is this Important?**

- 3.11 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits, and sets the level at which funds may be reallocated within budgets.

#### **Key Controls**

- 3.12 The Key Controls are that the format:
- complies with all legal requirements;
  - complies with proper accounting and professional standards;
  - reflects the accountabilities of service delivery.

#### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 3.13 To advise the Cabinet on the format of the budget that is approved by the full Council.
- 3.14 To ensure that there is a budget setting timetable in place that is approved by the Cabinet.

#### **Responsibilities of Chief Officers and Heads off Service**

- 3.15 To comply with accounting guidance provided by the Section 151 Officer (Head of Finance).

#### **Revenue Budget Preparation and Medium-Term Financial Planning**

#### **Why is this Important?**

- 3.16 The Council is a large and complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Authority's plans and policies.

- 3.17 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are needed so that the Authority can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for a local authority to budget for a deficit.
- 3.18 In considering the affordability of its capital plans the Council is required to consider all the resource currently available, and for the future together with an estimate of its requirements for the following year and each of the following three years. The Council is also required to consider known significant changes beyond this timeframe. This requires the development of rolling 4-year forecasts.

### **Key Controls**

- 3.19 The Key Controls for budgets and medium-term financial planning are:
- budget holders are responsible for the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered;
  - a monitoring process is in place to review the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 3.20 To prepare a report annually on a budget strategy for the following financial year for consideration by the Cabinet. This will take account of the commitments, resource constraints and shall include medium term prospects. It will cover all the services of the Authority. The Cabinet having considered the report of the Section 151 Officer (Head of Finance) will then agree a medium term financial plan.
- 3.21 To prepare, after the budget strategy has been agreed by the Cabinet, in conjunction with the Chief Officers and Heads of Service, estimates of the income and expenditure of the various service areas and submit them to the Cabinet. The Cabinet shall consider the aggregate effect of these estimates upon the Authority's financial resources and, subject to any other considerations of policy and to any amendments which it proposes to make, shall draw up proposals for the Budget and the amount of Council Tax to be levied for the ensuing financial year to be referred to the Council. The inclusion of items in approved revenue estimates shall constitute authority to incur such expenditure save to the extent of which the Council shall have placed a reservation on any such items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservations have been removed.
- 3.22 To prescribe the Budget format required and to ensure that there is a budget setting timetable in place.
- 3.23 To advise on the medium term implications of spending decisions and prepare medium term plans.

- 3.24 To encourage the best use of resources and value for money by working with Chief Officers and Heads of Service to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 3.25 To advise the full Council on Cabinet proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.
- 3.26 To ensure all matters required to be taken into account are reported to the Cabinet and Council when setting and reviewing prudential indicators.

### **Responsibilities of Chief Officers and Heads of Service**

- 3.27 To provide the Section 151 Officer (Head of Finance) with information to complete the medium term financial plan.
- 3.28 To prepare, in conjunction with the Section 151 Officer (Head of Finance), estimates of income and expenditure.
- 3.29 To prepare budgets consistent with any relevant cash limits, with the Authority's annual budget cycle and with guidelines issued by the Cabinet. The budget format will be prescribed by the Section 151 Officer (Head of Finance).
- 3.30 To integrate financial and budget plans into service planning and for them to link in with the Corporate Plan.
- 3.31 To ensure that all savings proposals and budget pressures put forward during the budget setting process are evidence based and are constructed using best estimates.
- 3.32 When drawing up draft budget requirements, to have regard to:
  - spending / income patterns and pressures revealed through the budget monitoring process;
  - legal requirements;
  - policy requirements as defined by the full Council in the approved policy framework;
  - initiatives already under way;
  - Areas where savings/efficiencies can be made.

### **Resource Allocation**

#### **Why is this Important?**

- 3.33 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods, property and materials.

## **Key Controls**

- 3.34 The key controls for resource allocation are:
- resources are acquired in accordance with the law and using an approved authorisation process;
  - resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
  - resources are used with the minimum level of waste, inefficiency or loss for other reasons.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 3.35 To advise on Resources such as grants or the affordability of borrowing.
- 3.36 To advise on the suitability of proposals to introduce/modify financial procedures to control resources (e.g. stock control systems).
- 3.37 To assist in the allocation of resources to budget holders.

### **Responsibilities of Chief Officers and Heads of Service**

- 3.38 To work within cash limits and to utilise resources allocated, and furthermore to allocate resources, in the most efficient, effective and economic way.
- 3.39 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## **Revenue Budget Monitoring and Control**

### **Why is this Important?**

- 3.40 Proper budget management ensures that, once the budget has been approved by the full Council, resources are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- 3.41 By continuously identifying and explaining variances against budgetary targets, the Authority can identify changes in trends and resource requirements at the earliest opportunity. The Authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the Authority, in total, does not overspend, each service area is required to manage its own expenditure within the cash limited budget allocated to it.
- 3.42 Chief Officers and Heads of Service are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring revenue expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. They must plan to fund such commitments from within their own budgets.



- 3.43 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required.

### **Key Controls**

- 3.44 The minimum key controls for managing and controlling the revenue budget are:
- there is a nominated budget manager for each cost centre;
  - budget holders accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
  - budget holders follow an approved certification process for all expenditure;
  - income and expenditure are properly recorded and accounted for;
  - performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget; and
  - specific budget approval is given for all expenditure.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 3.45 To establish an appropriate framework of budgetary management and control that ensures that:
- budget management is exercised within annual cash limits unless the full Council agrees otherwise;
  - all Chief Officers and Heads of Service are furnished with periodical statements of receipts and payments and such other relevant information as he/she has which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
  - in consultation with Chief Officers and Heads of Service, reports are submitted, as determined by the Section 151 Officer (Head of Finance), to the Cabinet, Select Committees, monitoring expenditure and comparing anticipated outturn with estimates;
  - each cost centre has a single named manager, determined by the relevant Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision making processes that commits expenditure; and
  - significant variances from approved budgets are investigated and reported by budget holders regularly.
- 3.46 To ensure that Members and Strategic Leadership Team are appropriately briefed to allow them to understand the reports that are presented to them where a Head of Service is unable to balance expenditure and resources within existing approved budgets under his or her control.

### **Responsibilities of Chief Officers and Heads of Service**

- 3.47 To be responsible for keeping strict supervision of the expenditure of their respective service areas and for drawing the attention of the Section 151

Officer (Head of Finance) and the Cabinet and the Council to any contemplated expenditure not provided for in the estimates or which, if incurred, would exceed the amount allocated for the purpose in the estimates.

- 3.48 To maintain budgetary control within their service areas, in adherence to the principles above, and to ensure that all income and expenditure is properly recorded and accounted for.
- 3.49 To ensure that budgetary provision is identified for all expenditure incurred.
- 3.50 To ensure that officers responsible for committing expenditure comply with relevant guidance and financial regulations.
- 3.51 To ensure, after consultation with the Section 151 Officer (Head of Finance) that there is subsequent approval by the full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
- create financial commitments in future years;
  - change existing policies, initiate new policies or cease existing policies;
  - materially extend or reduce the Authority's services.
- 3.52 To ensure compliance with procedures regarding virement.

## **CAPITAL BUDGETING AND MONITORING**

### **Why is this Important?**

- 3.53 Capital expenditure (including use of capital grants and PFI/PPP projects or similar type arrangements) involves acquiring or enhancing fixed assets with a long term value to the Authority, such as land, buildings, infrastructure and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 3.54 The financing capacity of the Authority is restricted by the affordability prudence and sustainability of the Capital Programme and the underlying borrowing that supports it. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

### **Key Controls**

- 3.55 The key controls for capital programmes are:
- specific approval by the full Council for the programme of capital expenditure;
  - a scheme and estimate, including a robust business plan, options, progress targets and associated revenue expenditure is prepared for each capital project, for appraising by the Section 151 Officer (Head of Finance);

- proposals for improvements and alterations to buildings must be approved by the appropriate Head of Service in accordance with the Asset Management Plan;
- schedules for individual projects within the overall budget approved by the Council must be approved by the appropriate Head of Service;
- accountability for each proposal is accepted by a named project manager;
- progress and expenditure should be monitored and compared to the approved budget; and
- VAT is recorded and reported accurately and that payments are made in accordance with the requirements of VAT legislation and the HMRC's Construction Industry Scheme.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 3.56 To issue guidance relating to the strategy and controls for capital schemes. The definition of 'capital' will be determined by the Section 151 Officer (Head of Finance), having regard to Government regulations and accounting requirements.
- 3.57 To advise the Cabinet and Council on the affordability, prudence and sustainability of the Capital Programme by the preparation of prudential indicators as required by the Prudential Code for Capital Finance in Local Authorities.
- 3.58 To ensure all matters required to be taken into account are reported to the Cabinet and Council when setting and revising prudential indicators.
- 3.59 To establish procedures for the monitoring of prudential indicators.
- 3.60 To prepare a report on the Capital Programme for the service area proposals, taking into account the Prudential Code Borrowing, Policy Framework, commitments, resource constraints and Capital Receipts. This report shall compare the estimates with the finance available and propose the level of annual expenditure of each service area. The report will identify those schemes where expenditure may only be incurred after further work has been undertaken.
- 3.61 To furnish all Chief Officers and Heads of Service with periodical statements of expenditure and progress on individual schemes. It shall be the responsibility of the Section 151 Officer (Head of Finance) in consultations with each Chief Officer and Head of Service to submit reports, as determined by the Section 151 Officer (Head of Finance), to the Cabinet, Select Committees and the Council, monitoring expenditure and comparing with approved programme. The inclusion of items in the approved Capital Programme shall constitute authority to incur such expenditure save to the extent of which the Council shall have placed a reservation on any such items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservations have been removed.

## **Responsibilities of Heads of Services and Capital Budget Holders**

- 3.62 To comply with guidance concerning capital projects and controls issued by the Section 151 Officer (Head of Finance).
- 3.63 To carry out an option appraisal before bidding / incurring capital expenditure to determine alternative methods of meeting need.
- 3.64 To consider the revenue implications of Capital Projects over the whole life of projects and notify the Section 151 Officer (Head of Finance) when planning to undertake such schemes which do commit the Authority to additional Revenue expenditure.
- 3.65 To submit a prioritised list of bids as part of the Medium Term capital budgeting process representing the schemes required to deliver service and corporate strategy.
- 3.66 To ensure that all capital expenditure proposals are processed through the capital working group in advance of the Section 151 Officer (Head of Finance) making recommendations to Cabinet or Council as necessary.
- 3.67 To ensure that adequate records are maintained for all capital contracts and the preparation of grant claims.
- 3.68 To ensure compliance with the Authority's scheme of virement.
- 3.69 To report to the Section 151 Officer (Head of Finance) as soon as it becomes apparent that the total cost of a scheme including variations will or is likely to exceed £50,000 or 5% [whichever is the higher] above the capital budget available. This report should cover the reasons for increased cost, an analysis of options considered to reduce cost to budget and the funding options considered to meet any budget shortfall.
- 3.70 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Section 151 Officer (Head of Finance) and, if applicable, approval of the scheme through the capital programme.
- 3.71 To consult with the Section 151 Officer (Head of Finance) where the Head of Service proposes to bid for Capital Funding to be issued by Government departments or others to support expenditure that has not been included in the current year's capital programme.
- 3.72 To ensure all expenditure charged against capital budgets meets the definition of capital expenditure in accordance with the Local Government Act 2003 and recommended accounting practice.

## **MAINTENANCE OF RESERVES**

### **Why is this Important?**

- 3.73 Reserves can be provided as a working balance, a contingency for unexpected events or emergencies or to meet known or predicted liabilities.

### **Key Controls**

- 3.74 To maintain reserves in accordance with the relevant codes of practice on local authority accounting in the United Kingdom and agreed accounting policies.
- 3.75 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 3.76 The establishment of reserves and incurring of expenditure from reserves should be authorised by Cabinet.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 3.77 To advise the Cabinet and/or the full Council on prudent levels of Reserves for the Authority.
- 3.78 To report to Council on the adequacy of reserves when setting the budget for the year and at outturn.

### **Responsibilities of Chief Officers and Heads of Service**

- 3.79 To ensure that resources are used only for the purposes for which they were intended.

## SECTION 4 - RISK MANAGEMENT AND CONTROL OF RESOURCES

- Risk Management
- Internal Controls
- Internal and External Audit
- Preventing Fraud and Corruption
- Security of Assets:-
- Land and Buildings
- Vehicles, Furniture and Equipment
- Stocks and Stores
- Cash
- Information and Communication Technology
- Intellectual Property
- Clients' Private Property
- Treasury Management and Trust Funds

### RISK MANAGEMENT

#### Why is this Important?

4.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks, and then recommending the action the organisation needs to take to control these risks effectively.

#### Key Controls

4.2 The key controls for risk management are:

- procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Authority;
- a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;
- managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- managers apply a standard approach to risk identification and recording, using the risk management strategy;
- provision is made for losses that might result from the risks that remain;

- procedures are in place to investigate claims within required timescales;
- acceptable levels of risk are determined and insured against where appropriate;
- the Authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

#### **Responsibilities of Senior Leadership Team**

- 4.3 To develop risk management controls in conjunction with Chief Officers and Heads of Service.
- 4.4 To ensure that arrangements are in place for measuring the effectiveness of the risk management process, and that all findings from monitoring arrangements are fed back into the risk management cycle.

#### **Responsibilities of Section 151 (Head of Finance)**

- 4.5 To affect insurance cover, and to arrange for the negotiation of claims in consultation with other Chief Officers, where necessary.
- 4.6 To hold in safe custody all insurance policies of the Authority, arrange for payment of premiums by the due date, and manage the Authority's own Insurance Fund.
- 4.7 To make arrangements to ensure that insurance records relating to liability policies and related correspondence must be retained indefinitely. Documents relating to other policies and internal funding arrangements must be retained for six years. All employees will adhere to the requirements of the Section 151 Officer (Head of Finance) as to the retention of any documents of the nature referred to in this rule.

#### **Responsibilities of Chief Officers and Heads of Service**

- 4.8 To take responsibility for risk management, having regard to advice from the Section 151 Officer (Head of Finance), and other specialist officers (e.g. emergency planning, health and safety).
- 4.9 To ensure that there are regular reviews of risk within their service areas.
- 4.10 To ensure that risk management is brought to the attention of relevant staff in their service areas.
- 4.11 To notify the Section 151 Officer (Head of Finance) immediately in writing of any loss, liability or damage, or any event likely to lead to a claim by or against the Authority, and inform the Police, where necessary.
- 4.12 To submit claims in such a form as prescribed from time to time by the Section 151 Officer (Head of Finance).
- 4.13 To arrange for the identification of all appropriate employees of the Authority who should be included in a suitable fidelity guarantee insurance, and shall make arrangements through the Section 151 Officer (Head of Finance) for such inclusion.

- 4.14 To notify the Section 151 Officer (Head of Finance) promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 4.15 To notify the Section 151 Officer (Head of Finance) promptly of any significant acquisitions or disposals of assets or any alteration to the scope or level of services provided, particularly where the risk of accident, injury, loss or damage is likely to increase.
- 4.16 On a regular basis, the Section 151 Officer (Head of Finance) will forward to Chief Officers, schedules of assets covered by insurance. Chief Officers must examine the schedules and ensure that the details of those assets are correctly recorded and that the scope and level of insurance cover are adequate, and consistent with the Authority's corporate insurance arrangements.
- 4.17 To provide the Section 151 Officer (Head of Finance) with any information that he/she needs and in the timescale that he or she sets, to enable him or her to manage the Authority's insurances effectively.
- 4.18 To consult with the Section 151 Officer (Head of Finance) and the Head of Legal on the terms of any indemnity that the Authority is requested to give.
- 4.19 To ensure that officers, or anyone covered by the Authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice cover under the council's insurance policy and the assessment of liability in respect of any insurance claim.

## **INTERNAL CONTROLS**

### **Why is this Important?**

- 4.20 The Authority is a large, complex organisation which requires internal controls to manage and monitor progress towards strategic objectives.
- 4.21 The Authority has statutory obligations and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 4.22 The Authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 4.23 The system of internal controls is established in order to provide measurable achievement of:
  - efficient and effective operations;
  - reliable financial information and reporting;
  - compliance with laws and regulations;
  - risk management.



## **Key Controls**

4.24 The key controls are:

- key controls should be reviewed on a regular basis and the Authority should make a formal statement annually to the Audit Committee to the effect that it is satisfied that the systems of internal control are operating effectively [Chief Internal Auditor's Annual Report];
- managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
- financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems;
- an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline Guidance for Internal Auditors, the Public Sector Internal Auditing Standards and with any other statutory obligations and regulations; and
- an effective Audit Committee which meets on a regular basis to consider internal control and auditing matters.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

4.25 To assist the Authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

### **Responsibilities of Chief Officers and Heads of Service**

4.26 To establish sound arrangements, consistent with guidance given by the Section 151 Officer (Head of Finance), or the Chief Internal Auditor, for planning, appraising, authorising, and controlling their operations, in order to achieve:

- continuous improvement;
- economy;
- efficiency;
- effectiveness;
- the proper use of resources;
- the achievement of objectives; and
- the management of risks.

4.27 To review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with guidance from the Chief Internal Auditor. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective, for example, because of duplication.

- 4.28 To ensure staff have a clear understanding of the consequences of lack of control.

## **INTERNAL AND EXTERNAL AUDIT**

### **Internal Audit**

#### **Why is this Important?**

- 4.29 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities 'make arrangements for the proper administration of their financial affairs'. The Accounts and Audit Regulations (Wales) 2005, more specifically, require that a 'local government body shall maintain an adequate and effective system of internal audit of its accounting records and of its systems of internal control in accordance with the proper internal audit practices'.
- 4.30 Internal audit is an independent and objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

#### **Key Controls**

- 4.31 The key controls for internal audit are:
- that it is independent in its planning and operation;
  - the Chief Internal Auditor has direct access to the Chief Executive and the Leader of the Council, all levels of management and directly to elected members;
  - internal auditors comply with the Public Sector Internal Auditing Standards;
  - that it reports to the Audit Committee.

#### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 4.32 To maintain a continuous and independent internal audit of the Authority's accounting, financial and other operations of the Authority.
- 4.33 To ensure that all employees carrying out auditing duties comply with the current Public Sector Internal Auditing Standards and that they are competent to perform the responsibilities that they are assigned.
- 4.34 To make arrangements for there to be undertaken a cyclical review of all financial systems throughout the Authority and to determine the appropriate level of audit coverage.

- 4.35 To ensure that internal auditors have the authority to:
- access authority premises at reasonable times, subject to the Chief Internal Auditor being satisfied as to any risk to health and safety;
  - access all assets, records, documents, correspondence and control systems;
  - receive any information and explanation considered necessary concerning any matter under consideration;
  - require any employee of the Authority to account for cash, stores or any other authority asset under his or her control;
  - access records belonging to third parties, such as contractors, when required;
  - review, appraise and report on the adequacy and application of financial and other controls, and on the protection of the Authority's property and assets against loss due to fraud or wasteful practices.
- 4.36 To consider the strategic and annual audit plans prepared by the Chief Internal Auditor, which take account of the characteristics and relative risks of the activities involved, before the plan is endorsed by the Audit Committee.
- 4.37 To ensure that the Chief Internal Auditor has the right to report independently to the Council, the Audit Committee or an appropriate committee, in his/her own name.
- 4.38 To ensure that the Chief Internal Auditor provides an annual opinion on the Council's internal control environment as part of his / her annual report.
- 4.39 To ensure the Chief Internal Auditor reports regularly to the Audit Committee on the adequacy of the internal control environment operated by the Authority.

#### **Responsibilities of Chief Officers and Heads of Service**

- 4.40 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 4.41 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 4.42 To consider and respond promptly to recommendations contained in audit reports.
- 4.43 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 4.44 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Internal Auditor prior to implementation.

## **External Audit**

### **Why is this Important?**

- 4.45 Under section 13 of the Public Audit (Wales) Act 2004, the Auditor General for Wales is the external auditor of each local authority in Wales. (Under transitional provisions of the Public Audit (Wales) Act 2013, an auditor appointed by the Auditor General continues to be the auditor of a local authority until the termination of his/her appointment.) The external auditor has rights of access to all documents and information, which he or she considers necessary to carry out his/her statutory functions.
- 4.46 The duties of the external auditor are set out in the Public Audit (Wales) Act 2004. The auditor must be satisfied that the authority's accounts give a true and fair view, are prepared in accordance with statute and proper practice. The auditor must also be satisfied that the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- 4.47 In addition to the audit of the accounts, the Auditor General has duties under the 2004 Act to undertake improvement studies of local authorities and powers to undertake other studies regarding the provision of services. The Auditor General also has duties to undertake improvement assessments, improvement planning audits and special inspections under the Local Government (Wales) Measure 2009.
- 4.48 The External Auditors attend all the meetings of the Authority's Audit Committee.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 4.49 To ensure there is effective liaison between external and internal audit.
- 4.50 To ensure good quality audit working papers are provided in readiness for external audit to undertake any planned work.
- 4.51 To work with the external auditor and advise the full Council, Cabinet and Chief Officers on their responsibilities in relation to external audit.

### **Responsibilities of Chief Officers and Heads of Service**

- 4.52 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets, which the external auditors consider necessary for the purposes of their work.
- 4.53 To ensure that all records and systems are up to date and available for inspection.
- 4.54 To ensure that all employees have proper regard to the guidance issued by the Section 151 Officer (Head of Finance) in connection with any external audits, and any reports of the external auditor.
- 4.55 To consider and respond promptly to recommendations contained in audit reports.

- 4.56 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

## **PREVENTING FRAUD AND CORRUPTION**

### **Why is it this Important?**

- 4.57 The Authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Authority.
- 4.58 The Authority's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 4.59 The Authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Authority with integrity and without thought or actions involving fraud and corruption.

### **Key Controls**

- 4.60 The key controls regarding the prevention of financial irregularities are that:
- the Authority has an effective Anti-Fraud and Anti-Corruption Strategy and maintains a culture that will not tolerate fraud or corruption;
  - all members and staff act with integrity and lead by example;
  - senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Authority or who are corrupt;
  - high standards of conduct are promoted;
  - the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded;
  - whistle blowing procedures are in place and operate effectively;
  - legislation, including the Public Interest Disclosure Act 1998, is adhered to; and
  - matters relating to fraud and corruption are reported promptly to the Section 151 Officer (Head of Finance).

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 4.61 To develop and maintain an Anti-Fraud and Anti-Corruption Strategy.
- 4.62 To assist the Authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- 4.63 To ensure that all suspected financial irregularities are reported to the Chief Internal Auditor. The Chief Internal Auditor shall take steps as he/she considers necessary by way of investigation, in liaison with service area management where appropriate, and in line with the Authority's Anti-

Fraud and Corruption Strategy. Where sufficient evidence exists to believe that a criminal offence may have been committed, the matter will be referred in conjunction with the Head of Finance to the police.

### **Responsibilities of Chief Officers and Heads of Service**

- 4.64 To review existing controls in the light of changes affecting the Authority and to establish and maintain new controls where appropriate.
- 4.65 To immediately notify the Chief Internal Auditor whenever any matter arises which involves, or is thought to involve, a breach of security, theft, or irregularities concerning cash, stores or other property of the Authority, or any suspected irregularity in the exercise of the functions of the Authority.
- 4.66 To liaise with the Chief Internal Auditor in relation to the investigation of any suspected irregularities within their service area, in line with the Authority's Anti-Fraud and Corruption Strategy.
- 4.67 Where sufficient evidence exists to believe that a criminal offence may have been committed by a member of staff, to discuss with the Head of Finance and the Chief Internal Auditor; a joint decision will be taken to refer the matter to the Police.
- 4.68 To instigate the Authority's disciplinary and suspension procedures where the outcome of an investigation indicates improper behaviour by a member of staff.
- 4.69 To ensure that employees comply with Council guidance regarding the acceptance of hospitality, gifts and other benefits.
- 4.70 To ensure their staff are aware of and comply with the Employee Code of Conduct and responsibilities under the Whistleblowing Policy are brought to their attention.

### **SECURITY OF ASSETS**

#### **Why is this Important?**

- 4.71 The Authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up to date asset register is a prerequisite for proper fixed asset accounting and sound asset management.
- 4.72 Obsolete, non-repairable or unnecessary assets should be disposed of in accordance with these regulations and the Contract Procedure Rules of the Authority.
- 4.73 Misuse of computer resources can seriously affect the business interests of the Authority.

4.74 Intellectual property is a generic term meaning non-physical product that is the product of original thought. It includes inventions, literary and artistic works, symbols, names, images, and designs. If these are created by an employee or consultant during the course of employment, then, as a general rule, they belong to the employer. Various Acts of Parliament cover different types of intellectual property. Certain activities undertaken within the Authority may give rise to items that may be patentable, for example, software development.

### **Key Controls**

4.75 The key controls for the security of resources such as land, buildings, vehicles, plant, machinery, furniture equipment, software and information are:

- resources are used only for the purposes of the Authority and are properly accounted for;
- resources are available for use when required;
- resources no longer required are disposed of in accordance with the law and the regulations of the Authority so as to maximise benefits;
- an asset register is maintained for the Authority - assets are recorded when they are acquired by the Authority and this record is updated as changes occur with respect to the location and condition of the asset;
- assets for disposal are identified and disposed of at the most appropriate time, and only when it is in the best interests of the Authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items estimated to be of the value of £10,000, disposal should be by competitive tender or public auction;
- approval for the disposal of assets, stocks and equipment up to the value of £5,000 must be sought from the Head of Services; if the value of disposal is likely to exceed £5,000 then approval must be given by the Head of Service in conjunction with the Head of Finance.
- procedures should protect staff involved in the disposal of assets from accusations of personal gain;
- all staff are aware of their responsibilities with regard to safeguarding the Authority's assets and information, including the requirements of the Data Protection Act, Freedom of Information Act and software copyright legislation;
- all staff are aware of their responsibilities with regard to safeguarding the security of the Authority's computer systems, including maintaining restricted access to the information held on them and compliance with the Authority's Information Governance policies;
- In the event that the Authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with any approved intellectual property procedures.

## **Security of Assets – Land and Buildings**

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 4.76 To maintain a terrier of all properties owned by the Authority and an asset register for all 'material' fixed assets, in accordance with good practice.
- 4.77 To ensure that assets are valued in accordance with the relevant codes of practice on local authority accounting in the United Kingdom.
- 4.78 To determine arrangements for the acquisition and disposal of land and buildings.
- 4.79 To advise on the financial implications of any purchase, sale or holding of property on the Authority's behalf.

### **Responsibilities of the Head of Legal**

- 4.80 To ensure the safe custody of all title deeds under arrangements agreed with the Section 151 Officer (Head of Finance).

### **Responsibilities of Chief Officers and Heads of Service**

- 4.81 To make arrangements to ensure the proper security of all the Authority's buildings.
- 4.82 To consult with the Chief Internal Auditor in any case where security is thought to need improvement or where it is considered that special security arrangements may be needed.
- 4.83 To ensure there are procedures in place to review the condition of physical assets used in delivery of services e.g. undertake regular impairment review.

## **Security of Assets - Vehicles, Furniture and Equipment**

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 4.84 To issue guidance to service areas on the maintenance of inventories and the disposal of assets.
- 4.85 To ensure appropriate accounting entries are made to include all material assets and to remove the value of disposed assets from the Authority's records and to include the sale proceeds if appropriate.
- 4.86 To agree procedures for the disposal of lost property.

### **Responsibilities of Chief Officers and Heads of Service**

- 4.87 To ensure the proper security and safe custody of all vehicles, equipment and furniture, belonging to or under the control of the Authority, and shall



make contingency plans for the continuity of service in the event of disaster or system failure.

- 4.88 To maintain inventories of furniture, equipment, vehicles and plant, including items leased by the Authority. This shall be kept up to date and shall be in a form approved by the Section 151 Officer (Head of Finance) and in accordance with the Authority's guidance. Chief Officers shall make arrangements to ensure that inventories shall include for each item, information relating to date of purchase, cost, location and any technical features, which might affect its value or usefulness.
- 4.89 To make arrangements to ensure that an annual, independent, check of all items on the inventory is carried out, in order to verify location, review, and condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers and cameras shall be identified with security markings as belonging to the Authority.
- 4.90 To ensure that the Authority's property shall not be removed from its ordinary location otherwise than in accordance with the ordinary course of the Authority's business except in accordance with specific directions issued by the Head of Service concerned or used otherwise than for the Authority's purposes. A record should be kept of all authorised removals.
- 4.91 To ensure that no Authority asset is subject to personal use by an employee without proper authorisation from the Head of Service.
- 4.92 To make arrangements to ensure that any disposal of any vehicle, furniture, fittings, equipment, plant and machinery is in accordance with the Authority's procedure for disposals.
- 4.93 Before disposal to check if the asset is subject to leasing arrangements. If the asset is leased, disposal must be in accordance with the terms of the lease.
- 4.94 To ensure that income received for the disposal of an asset is properly banked and coded.
- 4.95 If an item is lost, stolen or disposed of, this must be recorded against the entry in the inventory and reported to the Head of Service.
- 4.96 To notify the Section 151 Officer (Head of Finance) of the purchase or disposal of any material asset, to enable the asset register to be updated.
- 4.97 Any property left on Council premises and regarded as lost must be disposed of in accordance with procedures agreed with the Section 151 Officer (Head of Finance).

### **Security of Assets - Stocks and Stores (including products)**

#### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 4.98 To issue guidance to service areas on the maintenance of stock and stores.
- 4.99 To approve the write off of stock and stores in accordance with the Scheme of Delegations within the Constitution.

4.100 To ensure that appropriate accounting entries are made in relation to stock balances and write offs.

#### **Responsibilities of Chief Officers and Heads of Service**

4.101 To make arrangements for the recording of and the care and safe custody of the stocks and stores held by their service area.

4.102 To make arrangements to ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check, at least annually. Each Head of Service must make arrangements for discrepancies to be investigated and pursued to a satisfactory conclusion.

4.103 To advise the Chief Internal Auditor immediately of any significant discrepancy in stocks.

4.104 To approve the write off of stock and stores up to the value of £5,000 in accordance with the Scheme of Delegations.

4.105 To provide the Section 151 Officer (Head of Finance) with such information as he/she requires in relation to stores for accounting and costing purposes.

#### **Security of Assets – Cash**

##### **Responsibilities of the Section 151 Officer (Head of Finance)**

4.106 To issue guidance to service areas on cash handling.

4.107 To agree, in consultation with the appropriate Head of Service, the maximum limits for cash holdings.

4.108 To approve the write off of stolen cash, not covered by insurance.

4.109 To authorise the depositing of unofficial funds or valuables in a safe.

##### **Responsibilities of Chief Officers and Heads of Service**

4.110 To agree with the Section 151 Officer (Head of Finance), the maximum limits for cash holdings and to ensure that these limits shall not be exceeded without his /her permission.

4.111 To ensure that cash holdings are kept to a minimum, and do not exceed the insurance limit for that safe/cashbox.

4.112 To ensure that cash handling is carried out in line with the Authority's guidance.

4.113 To notify the Chief Internal Auditor and the Principal Insurance Officer of cash lost or stolen immediately. Stolen cash, which is not covered by insurance, can only be written-off with the agreement of the Section 151 Officer (Head of Finance).

4.114 To ensure that under no circumstances are personal cheques cashed out of monies held on behalf of the Authority.

4.115 To ensure that a schedule is kept of the officers who hold keys to safes and similar receptacles.

- 4.116 To ensure that the keys to safes and similar receptacles are held securely at all times. Arrangements shall be made for the nomination (from amongst employees) of key holders and substitute key holders who must be available in the absence of the principal key holder(s). The loss of any such keys must be reported by the key holder, or nominated substitute, to the relevant Head of Service forthwith, who shall take appropriate steps to protect the interests of the Authority.
- 4.117 To ensure that safe key holders do not accept unofficial funds or valuables for depositing in the safe unless authorised by the Section 151 Officer (Head of Finance). In such circumstances, it must be made clear by the key holder to the depositor, that the Authority is not to be held liable for any loss, and the key holder must obtain an acknowledgment to that effect before accepting the deposit.

## **Security of Assets - Information and Communication Technology**

### **Responsibilities of ICT Board /SRS**

- 4.118 To maintain a central inventory of technology equipment.
- 4.119 The development and integrity of the Authority's voice and data network infrastructure.
- 4.120 To approve all additions and alterations to the Authority's voice and data network.
- 4.121 To issue detailed guidance, in conjunction with Chief Officers, to all employees who are responsible for and/or use computer equipment on their responsibilities within the Authority's IT Security Policy.

### **Responsibilities of Chief Officers and Heads of Service**

- 4.122 To ensure that all equipment connected to the Authority's voice and data network infrastructure meets the standards identified by the ICT Board / SRS. Any requirement to add or make alterations to this network must be approved by the ICT Board / SRS.
- 4.123 To ensure that the provisions of the Authority's IT Security Policy and other ICT policies are applied to all employees of the Authority, as appropriate to their use of information technology.
- 4.124 To make arrangements to implement and monitor the procedures contained in the Authority's IT Security Policy. All employees must be familiar with, and comply with, the principals of the Data Protection Legislation, the Copyright, Designs and Patents Act 1988, the Computer Misuse Act 1990, and any other legislation or Authority policy which may apply to all employees at any time.
- 4.125 To agree, in advance, with the ICT Board / SRS, a requirement to use specialist IT goods and services that might not meet the standards identified by the ICT Board / SRS, but are necessary to perform particular business activities. The Head of Service will be responsible for ensuring that

such acquisitions do not compromise their corporate, financial and legal obligations, as defined by the Authority.

- 4.126 To ensure that all employees are aware that misuse of technology and associated systems can seriously affect the business interest of the authority. Such misuse or any breach of security policy will result in disciplinary action being taken.
- 4.127 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information in accordance with the Authority's Information Security Policy, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Authority in some way.

### **Security of Assets - Intellectual Property**

#### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 4.128 To develop and disseminate good practice.

#### **Responsibilities of Chief Officers and Heads of Service**

- 4.129 To ensure that controls are in place to ensure that employees do not carry out private work during periods when they are working for the Authority and that employees are aware of an employer's rights with regard to intellectual property.
- 4.130 To make officers aware that, if, at any time during their employment, an officer makes or discovers or participates in the making or discovery of any intellectual property relating to or capable of being used by the Authority, the officer must provide full details of the intellectual property to the relevant Head of Service or relevant Chief Officer.

### **Security of Assets – Clients' Private Property**

#### **Responsibilities of Chief Officers and Heads of Service**

- 4.131 The Chief Officer for Social Care & Health and any other Head of Service affected, shall take all necessary steps to prevent or mitigate loss or damage of a client's (being a person other than the Council) moveable property, where responsibility lies within the National Assistance Act 1948 and shall arrange for an itemised inventory in each case to be prepared in the presence of two officers, in a form prescribed by the Section 151 Officer (Head of Finance).
- 4.132 All valuables such as jewellery, watches and other small articles of a similar nature and documents of title shall be deposited with the Chief Officer for Social Care & Health and any other Head of Service affected, for safe custody. Any loss of property shall be reported to the Section 151 Officer (Head of Finance), without delay.

- 4.133 Where the Council acts as an Appointeeship for any of the Council's service users the procedures will be determined by the Chief Officer for Social Care & Health.

## **TREASURY MANAGEMENT AND TRUST FUNDS**

### **Why is this Important?**

- 4.134 Many millions of pounds pass through the Authority's bank accounts each year. It is vital that the Authority's money is managed in a secure and controlled way. Surplus funds are invested by the Authority with external organisations, and it is essential that risk is spread evenly, and that investments are placed with reputable organisations.

### **Key Controls**

- 4.135 Compliance with the CIPFA Treasury Management Code of Practice and the Authority's Treasury Management Policy Statement and Strategy. This provides assurances that the Authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Authority's capital sum.
- 4.136 All payments out of the Authority > £50,000 should be made via BACS or CHAPS.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 4.137 To prepare a Treasury Management Policy and Annual Report in accordance with the CIPFA Code of Practice.
- 4.138 To maintain prudential indicators in accordance with the Prudential Code of Capital Finance for Local Authorities.
- 4.139 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management in Local Government, which has been adopted by the Authority.
- 4.140 To set an investment strategy in accordance with WAG investment guidance.
- 4.141 To ensure that all investments of money under its control shall be made in the name of the Authority or in the name of nominees approved by the Cabinet or the Council within their respective responsibilities: bearer securities shall be excepted from this rule.
- 4.142 To hold all securities the property of, or in the name of the Authority, or its nominees, or otherwise as the Section 151 Officer (Head of Finance) may specifically direct.
- 4.143 To ensure that all borrowings shall be effected in the name of the Authority.

- 4.144 To be the Authority's Registrar of loan instruments and to maintain records of all borrowings of money by the Authority.
- 4.145 To report on the Treasury Management practices of the Authority in accordance with the CIPFA Code of Practice.
- 4.146 To hold all Trust Fund securities etc., where Members or employees act as Trustees by virtue of their official position, unless the deed otherwise provides; or as otherwise directed by the Chief Cabinet.
- 4.147 To arrange, where funds are held on behalf of third parties, for their secure administration, and to maintain records of all transactions.
- 4.148 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

**Responsibilities of Chief Officers and Heads of Service**

- 4.149 To notify the Assistant Section 151 Officer (Assistant Head of Finance - Accountancy) of planned monetary receipts or payments in excess of £0.5 million at an early stage.

## **SECTION 5 - FINANCIAL SYSTEMS AND PROCEDURES**

- General
- Income
- Banking
- Ordering and Paying for Work, Goods and Services
- Imprest Accounts
- Payment to Employees and Members
- Internal Charges
- Taxation

### **GENERAL**

#### **Why are Financial Systems and Procedures Important?**

- 5.1 Service Areas have many systems and procedures relating to the control of the Authority's assets, including purchasing, costing and management systems. It is important that systems and procedures are sound and well administered to ensure financial stewardship and control to enable effective decision making. All financial systems and procedures should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 5.2 The Section 151 Officer (Head of Finance) has a statutory responsibility to ensure that the Authority's financial systems are sound and must be notified, in advance, of any new developments or changes.

#### **Key Controls**

- 5.3 The key controls for systems and procedures are:
- basic data exists to enable the Authority's objectives, targets, budgets and plans to be formulated;
  - performance is communicated to the appropriate managers on an accurate, complete and timely basis;
  - early warning is provided of deviations from target, plans and budgets that require management attention;
  - operating systems and procedures are secure;
  - data is backed up on a regular basis.

#### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 5.4 To make arrangements for the proper administration of the Authority's financial affairs, including to:
- issue advice, guidance and procedures for officers and others acting on the Authority's behalf;

- determine the accounting systems, form of accounts and supporting financial records;
- establish arrangements for audit of the Authority's financial affairs;
- to determine the accounting procedures, records and controls for any new financial systems to be introduced; and
- to approve in advance any changes to be made to existing financial systems.

### **Responsibilities of Chief Officers and Heads of Service**

- 5.5 To consult with and gain the approval of the Section 151 Officer (Head of Finance) before changing any existing system or introducing new systems.
- 5.6 To ensure that accounting records are properly maintained and held securely.
- 5.7 To ensure that supporting vouchers and documents with financial implications are retained and not destroyed, except in accordance with arrangements approved by the Section 151 Officer (Head of Finance).
- 5.8 To ensure that a complete audit trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 5.9 To incorporate appropriate controls to ensure that, where relevant:
- all input is genuine, complete, accurate, timely and not previously processed;
  - all processing is carried out in an accurate, complete and timely manner;
  - output from the system is complete, accurate and timely;
  - data is backed up on a regular basis.
- 5.10 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of error, fraud or other malpractice.
- 5.11 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 5.12 To ensure that systems are documented and staff adequately trained.
- 5.13 To establish a scheme of service area authorisations identifying officers to act upon his or her behalf in respect of placing orders, use of procurement cards, payments and income collection, including variations, and showing the limits of their authority.
- 5.14 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.



- 5.15 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 5.16 To ensure that the Council's information security standards and internet security policy are complied with.
- 5.17 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 5.18 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- only software legally acquired and installed by the Authority's IT management body is used on its computers;
  - staff are aware of legislative provisions;
  - in developing systems, due regard is given to the issue of intellectual property rights.

## **INCOME**

### **Why is this Important?**

- 5.19 Income can be a vulnerable asset, and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Authority's cash flow and also avoids the time and cost of administering debts.

### **Key Controls**

- 5.20 The key controls for income are:
- all income due to the Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;
  - all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery;
  - all money received by an officer on behalf of the Authority is properly recorded and promptly banked;
  - the responsibility for cash collection should be separated from that for identifying the amount due, and that for reconciling the amount due to the amount received;
  - effective action is taken to pursue non-payment within defined timescales;
  - formal approval for debt write-off is obtained;
  - appropriate write-off action is taken within defined timescales;

- appropriate and timely accounting adjustments are made following write-off action;
- all appropriate income documents are retained and stored for the defined period in accordance with guidance issued by the Section 151 Officer (Head of Finance);
- money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

**Responsibilities of the Section 151 Officer (Head of Finance)**

- 5.21 To agree arrangements for the collection of all income due to the Authority, and to approve the procedures, systems and documentation for its collection. To raise awareness and ensure compliance with the Council’s Sundry Debtors Policy and the Debtors Policy for Social Care & Health.
- 5.22 To ensure that all electronic monies are properly received, assigned and reconciled.
- 5.23 To approve the writing off of all irrecoverable debts as follows:

Up to £5,000 and any bankruptcies	Revenues Manager  Finance Manager for SCH for specific SCH Debts
Between £5,000 and £10,000	Section 151 Officer
Over £10,000	Section 151 Officer and Cabinet Member for Finance

- 5.24 To use debt recovery procedures to collect any income due to the Authority which has not been paid within specified time limits.
- 5.25 To ensure that appropriate accounting adjustments are made following any write-off action.
- 5.26 To advise the Head of Legal of debts that have remained unpaid with a view to the institution of legal proceedings in appropriate cases.
- 5.27 To ensure that any sum due to the Authority shall only be discharged by payment, credit note or write off.

**Responsibilities of Chief Officers and Heads of Service**

- 5.28 To consult with the Section 151 Officer (Head of Finance) before any proposal to introduce or revise scales of charges for services is submitted to the Cabinet or the Council as the case may be.

- 5.29 To ensure that all such charges are reviewed at least once a year in consultation with the Section 151 Officer (Head of Finance).
- 5.30 To ensure that no agreements are put in place (legal or otherwise) that preclude the Council from reviewing its charges on an annual basis.
- 5.31 To ensure that new charges are promptly implemented following appropriate approval.
- 5.32 To ensure that where possible, income is received in advance of the service being provided.
- 5.33 To ensure that all income due, is promptly collected, correctly receipted, reconciled, accounted for and promptly banked.
- 5.34 To ensure that income collected and deposited is reconciled to the ledger on a regular basis.
- 5.35 To ensure that there is clear separation of duties within income procedures to ensure that adequate controls are in place.
- 5.36 To ensure that all income is correctly coded to the appropriate financial code.
- 5.37 To maintain such particulars in connection with work done, goods supplied or services rendered and of all other amounts due, to record correctly all sums due to the Authority and to ensure the prompt rendering of accounts for the recovery of income due.
- 5.38 To notify the Section 151 Officer (Head of Finance) promptly in writing of all money due to the Authority, and of contracts, leases and other agreements and arrangements entered into, which involve the receipt of money by the Authority.
- 5.39 To designate employees to receive monies due and to make arrangements to ensure that appropriate records are maintained.
- 5.40 To make arrangements to ensure that employees responsible for receiving income are issued with written instructions on cash handling and till operation procedures and that such employees have signed to acknowledge that instructions have been received and understood prior to commencing such duties.
- 5.41 To ensure that all employees use official receipts or tickets for all income received on behalf of the Authority and ensure that all chargeable VAT is accounted for. To seek approval from the Chief Internal Auditor for alternative receipting arrangements, where it is considered inappropriate to issue an official receipt or ticket, in advance of implementing such arrangements.
- 5.42 To ensure that all official receipt forms, books, tickets and other such items are ordered and supplied to service areas by the Chief Internal Auditor or under arrangements approved by him/her.
- 5.43 To ensure that all financial controlled stationery is securely held and accounted for at all times.

- 5.44 To ensure that the opening of incoming mail where money is being handled, is undertaken by at least two responsible officers designated for that purpose. In exceptional circumstances where this is considered impractical alternative arrangements must have the approval of the relevant Head of Service, and the relevant Head of Service will arrange for the Chief Internal Auditor to be advised accordingly.
- 5.45 To ensure that upon opening of incoming mail, all income is immediately recorded by the employee concerned either by way of receipt, remittance record or by another means, approved by the Chief Internal Auditor.
- 5.46 To ensure that all cheques received in the incoming mail are immediately stamped upon opening by the relevant employee, in preparation for banking.
- 5.47 To ensure that keys entrusted to employees are held securely at all times and are kept under their personal control. To ensure that employees understand their responsibilities as key holders, and of insurance requirements.
- 5.48 To ensure that income held by the Authority is not used to cash personal cheques or make personal loans or other payments.
- 5.49 To establish proper accountability wherever money is being handled. To ensure that every transfer of the Authority's money from one employee to another is evidenced in the records of the service area concerned. This may be by way of an official receipt being issued by the receiving employee, or if not, a record shall be maintained detailing the amount transferred, the date and the signature of both employees.
- 5.50 To ensure that when income is due to the Authority and the payment is not to be made at the time, all amounts due are claimed on official invoices or by arrangements approved by the Chief Internal Auditor. Instructions for the cancellation or reduction of invoices for income must be authorised by the appropriate Head of Service or such member of staff specifically designated by him/her for that purpose.
- 5.51 To make every reasonable effort to recover a debt before write off is considered. Once a debt is judged irrecoverable, write off procedures must commence promptly and adhere to the requirements of the relevant part of the scheme of delegations. Chief Officers must make arrangements in their respective service areas to ensure that correct procedures, for writing off debts, as prescribed by the Section 151 Officer (Head of Finance), have been adhered to and that adequate documentation exists for each case.
- 5.52 To ensure that credit notes to replace a debt are only raised to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 5.53 To ensure that proper procedures are followed for checking and authorisation for write off, prior to submission to the Section 151 Officer (Head of Finance) for approval.
- 5.54 To seek to achieve payment by direct debit or standing orders in situations where regular payments are due to the Authority.

- 5.55 To authorise an adjustment to the accounts, in consultation with the Section 151 Officer (Head of Finance), if a mistake has been made in raising an invoice.
- 5.56 To consult the Section 151 Officer (Head of Finance) about any proposal to arrange to accept payments by credit cards, debit cards, switch cards, internet, or similar means.
- 5.57 To notify the Section 151 Officer (Head of Finance) of outstanding income (accruals) relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the Section 151 Officer (Head of Finance).
- 5.58 To notify the Assistant Section 151 Officer (Assistant Head of Finance - Accountancy) of planned monetary receipts in excess of £0.5 million.

## **BANKING**

### **Why is this Important?**

- 5.59 Many millions of pounds pass through the Authority's bank accounts each year. It is vital that proper procedures are in place to ensure that the Authority's banking arrangements are secure and controlled.

### **Key Controls**

- 5.60 All banking arrangements are operated in accordance with approved procedures.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 5.61 To make or approve all arrangements with the Authority's bankers.
- 5.62 To open and operate such bank accounts as are considered necessary.
- 5.63 To ensure that all bank accounts operated by or on behalf of the Authority shall bear an official title and in no circumstances shall an account be opened in the name of an individual.
- 5.64 To approve the use of any direct debit/standing order on the Authority's accounts.
- 5.65 To arrange the reconciliation of the main bank account with the Authority's cash accounts.
- 5.66 To ensure that all cheques, excluding those drawn on authorised imprest accounts, are ordered only on his/her authority.
- 5.67 To make proper arrangements for the safe custody of cheques.
- 5.68 To ensure that cheques on the Authority's main bank accounts shall bear the facsimile signature of the Section 151 Officer (Head of Finance) or be signed by him/her or another officer authorised to do so.

- 5.69 Request for payments by alternative methods must first be approved by the Section 151 Officer (Head of Finance) or any officers delegated by him / her.
- 5.70 Personal cheques of Councillors or employees are not to be cashed.
- 5.71 To ensure that proper procedures are followed for receiving income through touch tone telephone banking systems and via the internet.
- 5.72 To ensure that bank accounts do not become overdrawn.

### **Responsibilities of Chief Officers and Heads of Service**

- 5.73 To ensure that all income collected is promptly banked. This is particularly important where large sums are involved that impact on the Authority's cash flow.
- 5.74 To ensure that all income received by an officer, on behalf of the Authority, is paid in direct to the Authority's bank, or transmitted directly to any other body or person entitled thereto. No deduction may be made from any money held, save to the extent that the Section 151 Officer (Head of Finance) may specifically authorise
- 5.75 To ensure that, in accordance with the relevant Accounts and Audit Regulations, each employee who banks money, enters on the paying in slip, a reference to the related debt (such as the receipt number or the number or the name of the debtor) and indicate its place of origin on the reverse of each cheque.
- 5.76 To ensure that all income received on behalf of the Authority is properly safeguarded from the time it is received until the time that it is banked (e.g. kept in a safe or locked receptacle – subject to guidance available from Internal Audit).
- 5.77 To ensure that in the transport of money by any employee for banking, or other purpose, that employee and his or her supervisor have due regard for the safety of employees (including the employee transporting such money), and for the proper security of cash. The Head of Service shall ensure arrangements are made which incorporate the necessary safeguards.
- 5.78 To ensure that payments made through the Council's bank account are properly authorised, correctly calculated, valid and in accordance with Council's procurement and payment procedures.

### **ORDERING AND PAYING FOR WORK, GOODS AND SERVICES**

#### **Why is this Important?**

- 5.79 Public money should be spent with demonstrable probity and in accordance with the Authority's policies. Local authorities have a statutory duty to achieve best value in part through economy and efficiency. The Authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Authority's Contract Procedure Rules.

## **Key Controls**

5.80 The key controls for ordering and paying for work, goods and services are:

- all orders shall be in a form approved by the Section 151 Officer (Head of Finance);
- official orders will be raised for all work, goods or services to be supplied to the Authority, except for supplies of utilities, periodic payments, procurement card or petty cash purchases or other exceptions specified by the Section 151 Officer (Head of Finance);
- all goods, works and services are ordered only by appropriate persons and are correctly recorded;
- all goods and services shall be ordered in accordance with the Authority's Contract Procedure Rules, unless they are purchased from sources within the Authority;
- goods, works and services received are checked to ensure they are in accordance with the order;
- payments are not made unless goods, works or services have been received by the Authority to the authorised price, quantity and quality standards, subject to tolerance levels set by the Section 151 Officer (Head of Finance);
- all payments are made to the correct person/supplier based on the supply of sufficiently detailed documentation, for the authorised amount and are properly recorded, regardless of the payment method;
- all officers and members are required to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority;
- all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with guidance issued by the Section 151 Officer (Head of Finance);
- all expenditure is accurately recorded against the right budget, any exceptions are corrected and VAT is accurately against the correct VAT code; and
- in addition, the use of e-commerce and electronic purchasing / invoicing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

## **Responsibilities of the Section 151 Officer (Head of Finance) - Procurement**

5.81 To produce Contract Procedure Rules and provide service areas with guidance relating to contracting and tendering arrangements.

5.82 To publish data on a monthly basis showing details of the Authority's procurement activity, including the use of procurement cards, in

accordance with the Council's requirements for openness and transparency.

### **Procurement Cards**

- 5.83 To produce and maintain a Policy for the use of procurement cards (also known as purchasing cards).
- 5.84 To consider, on an exceptional basis, business cases for the non-standard use of procurement cards where service areas can demonstrate that such use is in the best interests of the Authority.
- 5.85 To arrange payment of all confirmed and authorised procurement card transactions on a monthly basis.
- 5.86 To report any instances of non-compliance with Procurement Card Policy identified to the relevant Heads of Service and Chief Officers for their investigation.

### **Responsibilities of Chief Officers and Heads of Service - Procurement**

- 5.87 To ensure that all employees comply with the Authority's Contract Procedure Rules.
- 5.88 To ensure that the service area obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the Section 151 Officer (Head of Finance), which are in line with best value principles and contained in the Authority's Contract Procedure Rules.
- 5.89 To make arrangements to ensure that every employee declares any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority, in accordance with the Employee Code of Conduct. Any employee declaring such an interest or having such an interest will not participate in (or act so as to influence or appear to influence) any decisions relating to the matter in which they have such an interest. All Councillors involved in contractual or purchasing decisions on behalf of the Authority will declare any interests and act in accordance with the Members' Code of Conduct.
- 5.90 To ensure that officers within their service areas will not make any personal or private use of the benefits of any Authority contracts. For the avoidance of doubt, nothing in this paragraph will preclude an employee from taking advantage of Council wide schemes, which have been approved by the Section 151 Officer (Head of Finance).
- 5.91 To ensure that all IT purchases conform to a standard identified by the Head of ICT. Exceptional purchases, outside of these standards, shall be agreed in advance with the Head of ICT, through the ICT Programme Board.
- 5.92 To ensure that no financial systems are purchased without the prior agreement of the Section 151 Officer (Head of Finance).



## **Procurement Cards**

- 5.93 To ensure all employees comply with the terms of the Authority's Procurement Card Policy.
- 5.94 To ensure the necessary separation of duties required by the Procurement Card Policy is in place in respect of all cards in use within their service areas.
- 5.95 To authorise all applications for new Procurement Cards from prospective cardholders within their service areas.
- 5.96 To approve any variations to the standard credit limits in place for procurement cards within their service areas. Current standard limits are £250 per transaction and cumulatively £5,000 per card per calendar month.
- 5.97 To ensure that all procurement cardholders within their service areas complete the mandatory personal data form.
- 5.98 To update the Head of Finance promptly with details of all changes in procurement cardholders, lost and/or damaged procurement cards and any declined transactions.
- 5.99 To ensure cardholders and card administrators confirm the accuracy and completeness of monthly procurement card transactions promptly in accordance with the relevant Policy.
- 5.100 To investigate promptly all instances of non-compliance with the Procurement Card Policy referred by the Head of Finance.

## **Responsibilities of the Section 151 Officer (Head of Finance) - Ordering**

- 5.101 To approve the format of official orders and arrangements for placing orders under Purchase Order Processing (POP) System.
- 5.102 To approve the format and use of emergency order books and to order, control and issue these to exempted service areas.
- 5.103 To approve all exceptions to the use of official orders.
- 5.104 To approve any amendments to the arrangements for the use of debit, credit and procurement cards.

## **Responsibilities of Chief Officers and Heads of Service**

### **General**

- 5.105 To ensure that official orders are raised through the POP system for all works, goods and services supplied to the Authority except for internal services, periodical payments (e.g. utility payments), procurement card or petty cash purchases, and for such other exceptions as the Section 151 Officer (Head of Finance) may approve.
- 5.106 To determine purchase order approval levels within each service area.

- 5.107 In cases of urgency, a verbal order may be issued, using an order number from a valid emergency order book and with a clearly labelled confirmation order sent out as soon as possible thereafter.
- 5.108 To ensure that employees do not use official orders to obtain goods or services for their private use.
- 5.109 To ensure that each order conforms to the directions of the Authority with respect to any policy on central purchasing, computer purchasing, standardisation, quality and sustainability as may from time to time be adopted by the Authority. Chief Officers shall make arrangements to ensure that all purchases comply with any legal or health and safety requirements.
- 5.110 To ensure that debit, credit and procurement cards are only used under arrangements approved by the Section 151 Officer (Head of Finance) and in particular the Authority's Procurement Card Policy.
- 5.111 To make arrangements to ensure that loans, leasing or rental arrangements are not entered into or exited early without prior agreement from the Section 151 Officer (Head of Finance). This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- 5.112 After due consideration, to arrange for nominations for officers for the roles of requisitioner and approver. Note that the POP system will allow a requisitioner to fulfil the approver role, but will prevent an officer from approving their own requisition.
- 5.113 To maintain an up to date list of requisitioners, approvers/substitutes within their service area. No officer shall process or approve an order, or purport to do so, unless he/she is duly authorised for that purpose.
- 5.114 To ensure that all requisitions used are authorised by a nominated 'approver' with a financial approval limit greater than or equal to the value of the requisition and to ensure that the requisition's data is retained within the POP system.
- 5.115 Where a POP requisition is forwarded for approval to any other officer (e.g. in the case of absence of the usual approver), this officer must also be a nominated approver with a financial approval limit greater than or equal to the value of the requisition.
- 5.116 To ensure that the requisitioner enters the following details on the official order within the POP system:
- a full description of the item required;
  - an accurate price, where appropriate, as quoted by catalogue or supplier;
  - the required quantity;
  - an appropriate product category (account code will be generated);
  - cost centre and sub code;
  - the correct VAT suffix code; and
  - the delivery address;

- 5.117 To ensure that, prior to approving a requisition on POP, the approving officer checks that:-
- all relevant details have been entered and are correct;
  - there is adequate provision in the budget;
  - the items are appropriate for the purpose intended;

### **Emergency Orders**

- 5.118 To make arrangements to ensure the control and safe custody of all emergency order books.
- 5.119 To ensure that emergency order books are only used for cases of genuine emergency and for those POP exempt service areas as formally approved by the Section 151 Officer (Head of Finance).

### **Responsibilities of Chief Officers and Heads of Service - Goods Received**

- 5.120 To make arrangements to ensure that goods, services and works are checked on receipt to verify that they are in accordance with the order. This check shall, where possible, be carried out by a different officer from the officer who approved the order. The officer carrying out the check shall make appropriate entries in inventories or stores records.
- 5.121 To ensure that goods (or services) received details are entered promptly onto the POP system by the requisitioner or approver. This should be prior to receipt of the invoice.
- 5.122 To ensure that budget holders regularly review any open orders for their cost centres and ensure that they are processed or closed (as appropriate) promptly.

### **Responsibilities of the Section 151 Officer (Head of Finance) - Payment**

- 5.123 To arrange for officers to be nominated as Payment Officers and a list of these maintained on POP and kept up to date.
- 5.124 To make payments on behalf of the Authority with the exception of disbursements from petty cash imprests and from subsidiary bank accounts which have been authorised by the Section 151 Officer (Head of Finance). The normal method of payment of money due from the Authority shall be by cheque, BACS, CHAPS or other instrument drawn on the Authority's bank account. The use of direct debit/standing order requires the prior agreement of the Section 151 Officer (Head of Finance).
- 5.125 To make safe and efficient arrangements for all payments. All cheques shall be despatched by the Section 151 Officer (Head of Finance) direct to the recipient and not returned to the originating service. In the exceptional circumstances when cheques do need to be returned to a service area for despatch with associated documents, this must be approved in advance by

the relevant Operational Manager, and the cheque must not be passed to the initiating officer.

- 5.126 To ensure that payments made to a sub-contractors in the construction industry, are made in accordance with the Construction Industry Scheme, and the Authority's procedures.
- 5.127 To make payments to contractors on an approved certificate, which must include details of the value of work, retention money, amounts previously certified and amounts now certified. These payments are to be made to contractors using authenticated receipts raised by service areas.
- 5.128 To provide advice on making payments by the most economical means.
- 5.129 To set tolerance levels for cost and quantity variations.
- 5.130 To agree any exceptions to payment through the POP system.
- 5.131 To approve all arrangements for supplier invoices. These relate to payments which do not have an associated order, such as utility payments.
- 5.132 To approve the format of General Claim for Payment forms.
- 5.133 To periodically check that General Claim for Payment forms and supplier invoices have been certified for payment by an authorised signatory.
- 5.134 To consider General Claim for Payment forms and supplier invoices to the extent that he/she considers necessary, to make such enquiries and to receive such information and explanation as he/she may reasonably require.
- 5.135 To monitor the levels of non-order purchases and report any concerns to Chief Officers and Heads of Service for investigation.

### **Responsibilities of Chief Officers and Heads of Service – Payment**

#### **General**

To make arrangements for the submission of accounts for payment in accordance with arrangements made by the Section 151 Officer (Head of Finance).

- 5.136 To ensure that payment is made only against a valid invoice or General Claim for Payment, not on statements of account. In exceptional circumstances, payment may be made against a photocopy or faxed invoice but only where the relevant service manager has confirmed that the original invoice has been lost and that he/she has satisfied him/herself that the invoice has not previously been paid.
- 5.137 To notify the Section 151 Officer (Head of Finance) at 1<sup>st</sup> April, or as required, of all outstanding expenditure relating to the previous financial year, and to comply with any instruction issued in connection with the year-end accounting arrangements (accruals).
- 5.138 To ensure that the POP is used for all payments; and that any exceptions have been agreed previously by the Section 151 Officer (Head of Finance).
- 5.139 To ensure that there is a segregation of duties between the officers requisitioning, approving and inputting invoices for payment. Any

exceptions to this require the prior approval of the Chief Officer and an officer nominated by the Section 151 Officer (Head of Finance).

- 5.140 To ensure that invoices are input to the system without delay, in the manner specified by the Section 151 Officer (Head of Finance). Sufficient time should be allowed to enable payments to be made within 30 days of receipt of the invoice.
- 5.141 To ensure that invoices that do not meet the set tolerance levels are promptly dealt with. Where there is no match to an order and/or a delivery note, to ensure that further approval as required is given by a nominated approver/substitute.
- 5.142 To ensure that invoices are not processed until the inputting officer is satisfied that delivery details have been entered.
- 5.143 To ensure that all invoices input for payment are filed and stored securely in the manner prescribed by the Section 151 Officer (Head of Finance).

### **General Claims for Payment**

- 5.144 To ensure that all General Claims for Payment are completed on a form approved by the Section 151 Officer (Head of Finance). These must not be used in place of any invoice, demand, fee note or other written request for payment received from a creditor, and all relevant supporting documentation must be attached to support the payment.
- 5.145 To ensure that a General Claim for Payment is completed by a designated officer and then passed to an authorised signatory for certification.
- 5.146 To ensure that before a General Claim for Payment is authorised, the authorising officer undertakes the following checks:-
  - the payment is properly the liability of the Authority;
  - the work, goods or services to which the account relates have been received, carried out, examined and approved as to the quality and quantity (where appropriate);
  - the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
  - the expenditure has been properly coded to the relevant service area;
  - expenditure is within budget;
  - where a payment includes VAT, in accordance with HM Revenue and Customs Regulations:-
    - the invoice is a tax invoice with the relevant Company VAT number;

- for construction industry payments, an authenticated receipt will be obtained; and
- for payments made in advance of services/goods being received, a tax receipt will be obtained.

5.147 To ensure that payment in advance of the receipt of goods or services is only made where it is essential in order to secure the particular supply required or where a beneficial discount would otherwise be lost. This should be done in conjunction with the Legal Section to ensure an indemnity order is maintained.

5.148 To ensure that duly certified General Claims for Payment and direct payment invoices are passed without delay to the Section 151 Officer (Head of Finance).

### **Supplier Invoices (Non-Order Invoices)**

5.149 Any invoices received in departments with no responsibility for invoice entry to the Agresso system should be forwarded immediately to the central Creditor Payments Team.

5.150 On receipt of e-mail notification of non-order invoices for approval, the relevant officer (who will in all cases be an authorised POP approver) should access the Agresso Webpage to review promptly the invoice awaiting approval. Approving officers should also check the system regularly.

5.151 To ensure that before a Supplier invoice is authorised, the authorising officer undertakes the following checks:-

- the payment is properly the liability of the Authority; all invoices should be made out to Monmouthshire County Council;
- the work, goods or services to which the account relates have been received, carried out, examined and approved as to the quality and quantity (where appropriate);
- the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
- the expenditure has been properly coded to the relevant service area;
- expenditure is within budget;
- where a payment includes VAT, in accordance with HM Revenue and Customs Regulations:-
  - the invoice is a tax invoice with the relevant Company VAT number;

- for construction industry payments, an authenticated receipt will be obtained; and
- for payments made in advance of services/goods being received, a tax receipt will be obtained.

5.152 To ensure that authorising officers promptly reject any invoices containing an error or discrepancy, or which do not relate to the cost centre shown. In all cases the officer should a suitable explanation for rejection in the comments box on screen to enable further action to be taken by central Creditor Payments team.

5.153 To note that the use of supplier invoices will be routinely monitored for evidence of breach of the Financial Procedure Rules relating to the requirement for the use of POP orders and to investigate any concerns over non-compliance referred by the Head of Finance.

## **IMPREST ACCOUNTS**

### **Why is this Important?**

5.154 Imprest Accounts are used for minor items of expenditure. It is important that such accounts are properly managed, and that all expenditure is valid and correctly incurred.

### **Key Controls**

5.155 The key controls for the operation of Imprest Accounts are:-

- all Imprest Accounts should be operated in accordance with guidance issued by the Section 151 Officer (Head of Finance);
- regular reconciliations between the imprest sum advanced and imprest records are undertaken.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

5.156 Where he/she considers it appropriate to open an account with the Authority's bankers for use by the imprest holder (bank imprest) or alternatively to advance a cash sum (petty cash imprest).

5.157 To determine the imprest level.

5.158 To periodically review the arrangements for the safe custody and control of imprest accounts.

5.159 To reimburse imprest holders as often as necessary to restore the imprests and to keep a record of such advances.

5.160 To provide guidance on how imprest accounts are to be operated and how records are to be kept of payments and reimbursements.

## **Responsibilities of Chief Officers and Heads of Service**

- 5.161 To ensure that all imprest accounts are maintained in accordance with the Authority's procedures.
- 5.162 To maintain a list of officers in their service areas who are authorised to hold imprest accounts.
- 5.163 To notify the Section 151 Officer (Head of Finance) when an imprest holder leaves the service area and to ensure that the imprest advanced is accounted for to the Section 151 Officer (Head of Finance), unless responsibility for the imprest is transferred to a different officer, in which case the Section 151 Officer (Head of Finance) should be notified of the new account holder.
- 5.164 To agree with the Section 151 Officer (Head of Finance) the procedure for reimbursing expenditure imprest accounts.
- 5.165 To ensure that officers:
- do not, under any circumstances, allow personal cheques to be cashed, or personal loans to be made, from monies held in an imprest account;
  - obtain and retain a receipt to substantiate each payment from the imprest, which should be attached to a voucher and authorised. Particular care shall be taken by the employee to obtain a VAT invoice when this tax is charged;
  - restrict the amount of each separate payment to such limit as may be prescribed from time to time by the Section 151 Officer (Head of Finance);
  - maintain records and operate the account in accordance with the Section 151 Officer (Head of Finance) instructions;
  - maintain the safe custody of imprest cash by keeping it securely locked away preferably in a safe; guidance on this matter can be obtained from the Chief Internal Auditor;
  - produce, upon demand, to the Section 151 Officer (Head of Finance) or his/her representative cash and/or vouchers to the total of the imprest;
  - record transactions promptly;
  - when requested, give to the Section 151 Officer (Head of Finance) a certificate as to the state of his/her imprest advance;
  - where an imprest is operated through a bank account, ensure that the account remains in credit, and that the procedures set out under banking arrangements in the Financial Procedure Rules are followed. It shall be a standing instruction to the Authority's bankers that the amount of any overdrawn balance on an imprest holder's account shall be reported forthwith to the Section 151 Officer (Head of Finance);



- do not make salaries or wages payments to employees from an imprest account; No payment must be made to sub-contractors for building work unless authorised by the Section 151 Officer (Head of Finance);
- reconcile and balance the account to the total of the sum advanced, at least monthly, with a copy of the reconciliation sheet signed and retained by the imprest holder. Periodic checks shall be made by a senior officer to ensure that this is being properly carried out;
- on leaving the employment of the Authority, or otherwise ceasing to be entitled to hold an imprest advance, account to the relevant Head of Service for the amount advanced.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

### **Why is this Important?**

5.166 Staff costs are the largest item of expenditure for most local authority services. It is, therefore, important that payments are accurate, timely, made only where they are due for services to the Authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for, and that Members' allowances are authorised in accordance with the scheme approved by full Council.

### **Key Controls**

5.167 The key controls for payments to officers and Members are:

- proper authorisation procedures are in place, and that there is adherence to corporate timetables in relation to starters, leavers, variations and enhancements, and that payments are made based on timesheets or claims where appropriate;
- names on the payroll are checked at regular intervals to verify accuracy and completeness;
- frequent reconciliation of payroll expenditure against approved budgets;
- all appropriate payroll documents are retained and stored for the defined period, in accordance with guidance issued by the Section 151 Officer (Head of Finance);
- all expenditure, including VAT, is accurately recorded against the right service area;
- HM Revenue and Customs Regulations are complied with.

### **Responsibilities of the Head of Commercial and People Development**

5.168 To arrange, control and make accurate and timely payment of:

- salaries and wages;
- tax and national insurance;
- car mileage, travel, subsistence and other incidental allowances/expenses.

- 5.169 To approve, in consultation with the appropriate Head of Service, the form of all timesheets, overtime forms, car mileage and travel and subsistence claims, and any other payroll related records.
- 5.170 To maintain an up to date list of all officers authorised to approve timesheets, overtime forms, car mileage and travel and subsistence claims, and all other payroll related records.
- 5.171 To check periodically that all officer claims for salaries, wages, overtime, travel, subsistence and other allowances/expenses are correctly certified by an authorised signatory before payment is made. This also includes electronic certification via MyView.
- 5.172 To maintain all necessary personal records concerning pay, pension, national insurance contributions and income tax and make all relevant payments on behalf of both employees and the Authority to the appropriate Government agencies.
- 5.173 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 5.174 To issue guidance to service areas on the retention of payroll records. All payroll records relating to Income Tax and National Insurance are to be retained for six years plus the current year, to satisfy the requirements of the Taxes Management Act. Records relating to pensions should be retained for six years following the cessation of any liability.
- 5.175 Where staff have access to the Authority's computerised payroll system, names of all officers authorised to do so shall be retained and kept up to date. Each officer shall have a password that must be confidential and not divulged to any person in any circumstances (in accordance with the Authority's IT Security Policy).
- 5.176 To ensure that staff outside of the Employee Services Section do not have update access to the personnel screens on the Authority's personnel and payroll system without approval.

#### **Responsibilities of the Monitoring Officer to the Council**

- 5.177 To make arrangements for paying Members' allowances, travel, and subsistence upon receiving the prescribed form, duly completed and authorised. All claims will be examined and checked for reasonableness with respect to the amounts claimed. A record of authorised signatories shall be retained and kept up to date.

#### **Responsibilities of the People Services Manager**

- 5.178 To ensure that the appointment of officers is made in accordance with the Procedure Rules of the Council and the approved establishments, grades and rates of pay.

- 5.179 To approve the format of all records relating to the notification of appointments, terminations, sickness, special leave and any other personnel matter.
- 5.180 To maintain all necessary records relating to the appointment, termination and all other personnel matters.
- 5.181 To require on a quarterly basis from each staffing budget holder, confirmation of the accuracy of all employees recorded within the budget holder's area of responsibility.
- 5.182 Where Employee Services staff have access to the Authority's computerised personnel system, names of all officers authorised to do so shall be retained and kept up to date. Each employee shall have a password that must be confidential and not divulged to any person in any circumstances (in accordance with the Authority's IT Security Policy).

### **Responsibilities of Chief Officers and Heads of Service**

- 5.183 To furnish the Head of Commercial and People Development with all documents that are required to arrange payment by the due date and any documentation required for pension, income tax and national insurance purposes.
- 5.184 To ensure appointments are made in accordance with the regulations of the Authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 5.185 To ensure that time sheets, overtime forms or other payroll related records are in a form prescribed or approved by the Head of Commercial and People Development. All such records shall be appropriately certified in manuscript, by an authorised signatory.
- 5.186 To make arrangements to ensure that the People Services Manager and the Head of Commercial and People Development as appropriate, are notified promptly, and in the approved format, of all matters affecting the remuneration of officers within their service area, and in particular:
- appointments, resignations, dismissals, suspensions, secondments and transfers;
  - absences from duty for sickness or other reasons apart from approved leave;
  - changes in remuneration, other than normal increments and pay awards and agreements of general application; and
  - information necessary to maintain records of service for pension, income tax, national insurance and the like.
- 5.187 To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees;
  - payments are only made where there is a valid entitlement;
  - conditions and contracts of employment are correctly applied;
  - employees' details listed on the payroll are checked at regular intervals to verify accuracy and completeness;

- the same person does not both complete and authorise a timesheet, overtime form or other claim for payment;
  - persons involved in the different processes of completing and authorising a timesheet, overtime form or other claim for payment are clearly identifiable on the relevant document;
  - adequate supporting records are maintained to back up summary timesheet entries, completed by an individual on behalf of a group of employees. The supporting records must show the start and finish times of each employee each day, and should be signed by the employee concerned; and
  - no employee may certify or authorise a payment or other benefit to himself/herself or any document which would lead to a payment or other benefit to himself/herself.
- 5.188 To ensure that the service area maintains and reviews periodically a list of officers approved to authorise timesheets, overtime forms and other payroll related records together with specimen signatures, and to ensure that only authorised officers authorise payments. A copy of the list should be sent to the Head of Commercial and People Development.
- 5.189 To ensure that the service area reviews the establishment as required by the People Services Manager on a quarterly basis and confirms the accuracy of the report.
- 5.190 To ensure that payroll transactions are processed only through the payroll system. "Cash in hand" and other non PAYE payments are **not** permitted. Chief Officers shall give careful consideration to the employment status of individuals employed on a self-employed, consultant or subcontract basis. The HM Revenue and Customs applies a tight definition for employee status, and in cases of doubt, advice shall be sought from the Head of Commercial and People Development.
- 5.191 To ensure that all claims for the payment of car mileage, travel and subsistence, and incidental expenses are submitted promptly by officers in the approved format each month.
- 5.192 To arrange for the correct certification of claims for car mileage, travel and subsistence, and incidental expenses. Certification by the Head of Service or an officer authorised by him/her shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred in connection with the Authority's business, the most cost effective route and means of transport was used and that the allowances claimed are properly payable by the Authority. The names of officers authorised by Chief Officers to approve such records shall be retained in each service area, together with specimen signatures and this shall be amended on the occasion of any change. The accuracy of the information contained in a claim shall be the responsibility of the employee concerned. Due consideration should be given to tax implications and that the Head of Commercial and People Development is informed where appropriate.

- 5.193 To ensure that claims for travel, subsistence and other allowances are paid through the payroll system wherever possible to ensure the correct treatment for Tax and National Insurance purposes. Imprest accounts should only be used to process minor payments, where there are no tax implications.
- 5.194 To ensure that the Head of Commercial and People Development is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 5.195 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with guidance issued by the Head of Commercial and People Development.

### **Responsibilities of Elected Members and Co-opted Members of Council Committees**

- 5.196 To submit claims for travel or subsistence allowances on the prescribed form duly completed. All claims shall be submitted promptly, The accuracy of the information contained in a claim shall be the responsibility of the Member or co-opted Member concerned.

### **INTERNAL CHARGES**

#### **Why is this Important?**

- 5.197 Service Areas often undertake work for other service areas. The charge for such work should be recovered by way of a journal; only in exceptional circumstances should an internal debtor invoice be raised.
- 5.198 It is important that the basis of charge is agreed between the client and provider, and the financial transaction is accurately recorded in the Council's accounts.
- 5.199 The use of journals will cover Service Level Agreements, reallocation of costs and charges that are considered inappropriate for the Internal Trading Solution. The Internal Trading Solution will be used for those services where it is considered to be cost effective.

#### **Key Controls**

- 5.200 The key controls for internal charges are:
- all income and expenditure arising from an internal recharging relationship is correctly recorded and accounted for in a robust manner;
  - each charging activity will have a clear basis on which it will be recharged;
  - each charging activity will include the cost of the provision of the service plus an appropriate level of overhead;

- no significant surplus should be made by the provider at the expense of the internal customer unless there are contrary policies in place as approved by the Section 151 Officer (Head of Finance).
- all providers ensure that all internal customers are provided with the information reasonably required to accompany the journal charge;
- all charges must be challenged within an appropriate timescale (two months from being informed of charge). The provider must ensure all challenges are considered and where appropriate resolution is made by clarifying query or amending the charge made by journal.
- there will be an arbitration process to clear disputes promptly.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 5.201 To issue guidelines and procedures on the administration of the Authority's internal charging systems.
- 5.202 To ensure internal charging processes are efficient and effective and represent the best interests of the Authority as a whole.
- 5.203 To arbitrate on outstanding disputed charges where the client and supplier service area fail to reach agreement.

### **Responsibilities of Chief Officers and Heads of Service**

- 5.204 To comply with guidelines and procedures issued by the Section 151 Officer (Head of Finance) on the administration of the internal charging systems.

## **TAXATION**

### **Why is this Important?**

- 5.205 Like all organisations, the Authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax can be severe. It is, therefore, very important for all officers to be aware of their role.

### **Key Controls**

- 5.206 The key controls for taxation are:
- budget holders are provided with relevant information and kept up to date on tax issues;
  - budget holders are instructed on required record keeping;
  - all taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
  - records are maintained in accordance with instructions;
  - returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 5.207 To complete all HM Revenue and Customs returns regarding Pay As You Earn (PAYE).
- 5.208 To complete VAT returns and to supply other information as specified by HM Revenue and Customs.
- 5.209 To provide details to the HM Revenue and Customs of deductions made under the Construction Industry Tax Deduction Scheme.
- 5.210 To advise Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Authority.

### **Responsibilities of Chief Officers and Heads of Service**

- 5.211 To ensure that where VAT is accounted for in respect of a payment, in accordance with HM Revenue and Customs regulations, the following conditions are satisfied:-
  - the payment relates to a supply of goods or services to Monmouthshire Council or to some other body covered by the Council's VAT registration;
  - unless otherwise authorised, a VAT invoice (or receipt) is held in respect of the payment;
  - where a payment is made to a contractor in the construction industry on the authority of an architect's certificate, an authenticated receipt is obtained as soon as possible;
  - the VAT identified on the VAT invoice is identified and coded correctly;
  - that VAT invoices are processed expeditiously and are not unduly delayed.
- 5.212 To ensure that VAT is accounted for, in the correct tax period, on all supplies of goods and services made by the Council that are subject to VAT.
- 5.213 To ensure that a VAT invoice (or receipt) is issued upon request by any person to whom taxable supplies of goods or services have been made by the Council, showing the VAT charged.
- 5.214 To ensure that all VAT invoices are raised and processed expeditiously.
- 5.215 To ensure that documents identifying VAT transactions, including proof of payment and banking records, are retained for the period specified by HM Revenue and Customs.
- 5.216 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 5.217 To ensure that all persons employed by the Authority are added to the Authority's payroll and that tax is deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

- 5.218 To follow any guidance on taxation issued by the Section 151 Officer (Head of Finance).
- 5.219 To ensure that arrangements are in place for all relevant staff to be informed about the correct VAT treatment of all transactions and of changes to this as notified by the Section 151 Officer (Head of Finance).



## **SECTION 6 - EXTERNAL ARRANGEMENTS**

*Covers Partnerships, External Funding, Work for third parties, Local Authority Companies, Trust Funds*

- Partnerships
- External Funding
- Work for Third Parties

### **PARTNERSHIPS**

#### **Why is this Important?**

- 6.1 Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – Aneurin Bevan LHB, Heddle Gwent Police, public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 6.2 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.
- 6.3 Individual Cabinet Members are responsible for approving the contractual arrangements for any work for third parties or external bodies where the contract value exceeds £250,000.
- 6.4 The default position is that any external arrangements will be subject to the Council's financial regulations, unless specific approval has been granted by Cabinet to do otherwise.

#### **General**

- 6.5 The main reasons for entering into a partnership are to share risk, to access new resources, to provide new and better ways of delivering services and to forge new relationships.
- 6.6 A partner is defined as either:
- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
  - a body whose nature or status give it a right or obligation to support the project.
- 6.7 Partners have common responsibilities:

- to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- to acknowledge that the best interest of the partnership is more important than the best interest of each participating group;
- to acknowledge that the partnerships require a level of flexibility which may require non-compliance with the Authority's Financial and Contract Procedure Rules. Where this arises it should be formally approved by Cabinet;
- to act in good faith at all times and in the best interests of the partnership's aims and objectives;
- to be open about any conflict of interests that might arise;
- to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;
- to act wherever possible as ambassadors for the project.

### **Key Controls**

6.8 The key controls for the Authority's partners are:

- to be aware of their responsibilities under the Authority's Financial and Contract Procedure Rules and to consider the appropriateness of each control to the partnership and any external funding guidance received;
- to ensure that processes are put in place which ensure that the partnership is effective in carrying out its duties in the required timely manner.
- to ensure that risk management processes are in place to identify and assess and mitigate all known risks without affecting the ability of the partnership to effectively function;
- to ensure that project appraisal processes and a strategic business case is in place to assess the viability of the project in terms of resources, staffing and expertise;
- to ensure that there is a sound legal vehicle in place prior to any project commencing;
- to ensure that there are robust arrangements for decision making and that budgets agreed by partners are lawful;
- to ensure clear accountability where the partnership uses grant income as a source of funding;
- to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and

- to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 6.9 To advise on the use of effective and waiving of ineffective controls within the partnership in order to ensure that resources are not wasted.
- 6.10 To advise, as appropriate, on the key elements of funding a project, including:
- a scheme appraisal for financial viability in both the current and future years;
  - risk appraisal and management;
  - resourcing, including taxation issues;
  - audit, security and control requirements; and
  - carry-forward arrangements.
- 6.11 To ensure that the accounting arrangements are satisfactory.

### **Responsibilities of Chief Officers and Heads of Service**

- 6.12 To consult with the Section 151 Officer (Head of Finance), as necessary, on a scheme's appraisal for financial viability in both the current and future years.
- 6.13 To ensure that risk management processes are in place to identify, assess and mitigate all known risks without affecting the ability of the partnership to effectively function.
- 6.14 To ensure that such agreements and arrangements do not impact adversely upon the services provided either by the Authority or the partnership.
- 6.15 To ensure that all agreements and arrangements are properly documented.
- 6.16 To provide appropriate information to the Section 151 Officer (Head of Finance) to enable a note to be entered into the Authority's statement of accounts concerning material items.

## **EXTERNAL FUNDING**

### **Why is this Important?**

- 6.17 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of authorities. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the Authority to deliver services to the local community. However, in some

instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Authority's overall plan.

### **Key Controls**

- 6.18 The key controls for external funding are:
- to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;
  - to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council;
  - to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future capital and revenue budgets reflect these requirements.

### **Responsibilities of the Section 151 Officer (Head of Finance)**

- 6.19 To ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts and budgets
- 6.20 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future capital and revenue budgets reflect these requirements.
- 6.21 To ensure that audit requirements are met.
- 6.22 Where he or she is specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.

### **Responsibilities of Chief Officers and Heads of Service**

- 6.23 To ensure that all checks are carried out to make certain that funding instructions associated in a bid for external funding are taken into account.
- 6.24 To maintain adequate supporting documentation to enable claims for funding to be maximised.
- 6.25 To ensure that all claims for funds are made by the due date.
- 6.26 To ensure that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded.

### **WORK FOR THIRD PARTIES**

#### **Why is this Important?**

- 6.27 Current legislation enables the Authority to provide a range of services to other bodies. Such work may enable a unit to maintain

economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is within the Authority's legal powers.

### **Key Controls**

- 6.28 The key controls for working with third parties are:
- to ensure that proposals are costed properly in accordance with guidance provided by the Section 151 Officer (Head of Finance); and
  - to ensure that contracts are drawn up using guidance provided by the Section 151 Officer (Head of Finance) and that the formal approvals process is adhered to.

### **Responsibilities of Section 151 Officer (Head of Finance)**

- 6.29 To issue guidance with regard to the financial aspects of third party contracts.

### **Responsibilities of Chief Officers and Heads of Service**

- 6.30 To ensure that appropriate insurance arrangements are made.
- 6.31 To ensure that the Authority is not put at risk from any bad debts.
- 6.32 To ensure that, wherever practicable, payment is received in advance of the delivery of the service.
- 6.33 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- 6.34 To ensure that such contracts do not impact adversely upon the services provided for the Authority.
- 6.35 To ensure that all contracts are properly documented.
- 6.36 To provide appropriate information to the Section 151 Officer (Head of Finance) to enable a note to be entered into the statement of accounts.

# 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.

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### 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)

## **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.

## 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 guestimate 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 (e.g. 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 expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the Constitution

## **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 (e.g. 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 (e.g. Construction line) 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)

## 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	Invitation to	Officer, Line	

Threshold * >£1m works only	Tender by advertisement, through relevant trade journal/portal and/or buy4wales	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 – see rule 8.1.4	Consult the Strategic Procurement Unit – see rule 8.1.4

\* 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 exceeds £1K)	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 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	Consult the Head of Legal	Consult the Head

	apply, Invitation to Tender by advertisement/ shortlist to at least four and no more than six candidates	Services – see rule 8.1.4	of Legal Services – see rule 8.1.4
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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.

(i) Dispute Resolution Clause – clause which stipulates how disputes will be resolved. (Refer to Strategic Procurement Unit for advice)

(j) Terms of payment – when and how payment is to be made.

(k) Delivery – When, where and how delivery is to be made.

(l) 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.

(m) Law – Need to identify the law under which the contract will be govern i.e. 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 (e.g. 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 (i.e. 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.

## **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 (i.e. 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 i.e. 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 (i.e. the works, materials, services)
- Quality and quantity of works, materials, services to be supplied
- The provisions for payment (i.e. 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 the Monitoring Officer 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 re-letting 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 which: <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>	Any of the following decisions:  Composition of approved lists Withdrawal of invitation to tender Whom to invite to submit a quotation or tender Shortlisting Award of contract
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	Any decisions to terminate a contract
<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>	<p>(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")</p> <p>(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.</p> <p>(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.</p> <p>(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).</p> <p>(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.</p> <p>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees</p>
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	<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> <p>(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</p> <p>(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</p> <p>(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48</p> <p>(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result</p> <p>(e) for nominated suppliers and sub-</p>



	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
<b>TUPE Transfer of undertakings (protecting of employment) Regulations 2006 (SI 2006 No. 246)</b>	Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the Council is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. 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.
<b>Value for Money</b>	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.

# OFFICER EMPLOYMENT PROCEDURE RULES

## 1. Recruitment and appointment

### 1.01 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 an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

### 1.02 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 and remuneration of Chief Officers

2.01 Where the Council proposes to appoint a Chief Officer, within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006 [as amended], and the proposed remuneration of the post is £100,000 or more per annum, or it is otherwise not proposed that the appointment be made exclusively from among their existing Officers, 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 publicly in such a way as is likely to bring it to the attention of persons who are qualified to apply for it (unless the proposed appointment is for a period of 12 months or less); and

(c) make arrangements for a copy of the statement mentioned above to be sent to any person on request.

2.02 Where a post has been advertised as provided in 2.01 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.

2.03 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 2.01 (b) above.

2.04 Any decision to determine or vary the remuneration of Chief Officers (or those to be appointed as Chief Officers) must be made by full Council.

### **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.]

Save for the appointment of the Head of Paid Service, the steps in 2.02 and 2.03 may be undertaken by a committee, sub-committee or chief officer.

### **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 Democratic Services**

(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, its chief finance officer or its Head of Democratic Services 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 [as amended] (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 Democratic Services**

7.01 Subject to paragraph 7.11, 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 authority's paid service;

(b) its monitoring officer; or

(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.

7.02 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.

7.03 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.

7.04 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")

7.05 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 Welsh Ministers.

7.06 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.

7.07 Subject to paragraph 7.08, 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.

7.08 Where there is no agreement under paragraph 7.07, the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

7.09 The relevant authority must consider the report prepared by the independent person under paragraph 7.06 (d) above within 1 month of receipt of that report.

7.10 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.

7.11 These rules do not apply in the case of a Head of Paid Service who is also the Council Manager. For the purposes of these rules, any officer who was a relevant officer at the time of the alleged misconduct or when the reason for the proposed dismissal occurred (but is no longer so), shall be regarded as a relevant officer.

7.12 A disciplinary committee of the Council (excluding those persons who served on the investigation committee) will consider the report under para. 7.09 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. Other Officers**

8.01 Appointment and dismissal of Officers below Chief Officer is the responsibility of the Head of Paid Service or his nominee, and may not be undertaken by councillors.

8.02 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.

## **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 (except for secretarial, clerical and support staff);

(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 (except for secretarial, clerical and support staff).

**“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.

**“Head of Democratic Services”** means the officer appointed under s.8 of the Local Government (Wales) Measure 2011

**“Chief Officer”** means:-

(a) the Head of Paid Service;

(b) the Monitoring Officer;

(c) the Head of Democracy

(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;

## PART 5 – CODES AND PROTOCOLS (E)

### MONMOUTHSHIRE COUNTY COUNCIL CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS

#### PART 1 INTERPRETATION

##### 1.—(1) 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
- (b) 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 subcommittee;

"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 sub-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 (Committees 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;

"Registered society" means a society, other than a society registered as a credit union, which is —

- (a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or

(b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

“Register of members’ interests” means the register established and maintained under section 81 of the Local Government Act 2000;

"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.

(2) In relation to a community council—

(a) “Proper officer” means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and

(b) “standards committee” means 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(1) and (2) of the Local Government Act 2000.

## **PART 2 GENERAL PROVISIONS**

**2.—(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 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 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 —

(i) the authority's head of paid service;

(ii) the authority's chief finance officer;

(iii) the authority's monitoring officer;

(iv) 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 subparagraph (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, registered 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;

*[Note: subparagraph (b) is omitted.]*

(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

(b) 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 subparagraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper 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

(c) 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 in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

(c) 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 subcommittees; and

(b) 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), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority 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.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

(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 Personal Interests**

**15.—(1)** Subject to sub-paragraph (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 personal interests, where they fall within a category mentioned in paragraph 10(2) (a), in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2) (a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2) (a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

(4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).

(5) Sub-paragraphs (1) and (2) do 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.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

### **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, or in relation to a community council, your authority's proper officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" means (i) 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 or (ii) information, the disclosure of which would or could place you in breach of a legally or professionally enforceable duty of confidence.

### **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, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

**Monmouthshire County Council adopted this revised version of the Code of Conduct at its Annual Meeting on 12<sup>th</sup> May 2016.**

## **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

### INTRODUCTION - What is Whistleblowing?

In this policy 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council or School.

Monmouthshire County Council and School Governing Bodies expect the highest standards of conduct from all employees, and encourage employees and others with serious concerns about any aspect of the Council / School's work to come forward and voice those concerns in a safe environment. This policy enables employees to raise concerns at an early stage and in the correct way.

If you are considering raising a concern you should read this policy first. It explains:

- The types of issues/disclosures that can be raised
- How the person raising a concern will be protected from victimisation and harassment
- How to raise a concern
- What the Council/School will do

Whistleblowing is defined as:

**'The disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employer or his/her fellow employees'** (Public Concern at Work Guidelines 1997).

Statutory protection for employees who whistle blow is provided by the Public Interest Disclosure Act 1998 ("PIDA"). The PIDA protects employees against victimisation if they make a protected disclosure within the meaning of the PIDA and speak out about concerns around conduct or practice within the Council/ school which is potentially illegal, corrupt, improper, unsafe and unethical or which amounts to malpractice.

### AIM AND SCOPE OF POLICY

The Council / School Governing Body is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices and will treat whistleblowing as a serious matter. In line with the Councils/ Governing Body's commitment to openness, probity and accountability, employees are encouraged to raise concerns which will be taken seriously, investigated and appropriate action taken in response.

In its application, this policy seeks to ensure that there is no discrimination against employees either directly or indirectly on grounds prohibited by the Equality Act 2010 which covers age, disability, gender reassignment, marriage and civil partnership, pregnancy and

maternity, race, religion or belief, sex or sexual orientation This policy is inclusive of partners of the opposite or same sex.

The policy is designed to ensure that you raise your concerns about wrongdoing or malpractice within the Council/ School without fear of victimisation, subsequent discrimination, disadvantage or dismissal.

The policy aims to:

- Encourage you to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns about practice
- Provide avenues for you to raise those concerns and receive feedback on any action taken
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- Provide reassurance that you will be protected from possible reprisals or victimisation if you have made disclosure in good faith and within the meaning of the PIDA.

#### **TYPES OF ISSUES/DISCLOSURES THAT CAN BE RAISED**

**In legislation, the types of disclosure include the following:**

- a) That a crime has been committed, is being committed, or is likely to be committed
- b) That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject,
- c) That a miscarriage of justice has occurred, is occurring, or is likely to occur
- d) That the health & safety of an individual has been, is being, or is likely to be endangered
- e) That the environment has been, is being, or is likely to be damaged
- f) That information tending to show any of (a) to (e) above has been concealed or is likely to be deliberately concealed

In addition to the above, and as further examples, this policy also covers whistleblowing relating to alleged:

- unlawful conduct
- miscarriages of justice in the conduct of statutory or other processes
- failure to comply with a statutory or legal obligation
- potential maladministration, misconduct or malpractice
- health and safety issues including risks to the public as well as risks to pupils and members of staff
- action that has caused or is likely to cause danger to the environment
- abuse of authority

- unauthorised use of public or other funds, fraud, bribery or corruption
- breaches of financial regulations or policies
- mistreatment of any person
- action that has caused or is likely to cause physical danger to any person or risk serious damage to Council or School property
- sexual, physical or emotional abuse of members of staff, service users, or pupils
- unfair discrimination or favouritism
- behaviour which is discriminatory towards someone with a protected characteristic under the Equality Act 2010.
- racist incidents or acts, or racial harassment or intimidation
- attempt to prevent disclosure of any of the issues listed

### **RELEVANT LEGISLATION**

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

The policy should be read in conjunction with the Councils:

- Codes of Conduct for both employees and County Councillors
- Disciplinary Policy
- Equality Policy
- Grievance Policy
- Guide to Volunteering

If an employee is the subject of disciplinary or redundancy procedures they will not be halted as result of whistleblowing.

### **POLICY SCOPE**

This policy is intended to enable those who become aware of wrongdoing in the Council/School affecting some other person or service, to report their concerns at the earliest opportunity so that they can be properly investigated. The Whistleblowing Policy is not intended to replace existing procedures:

- If your concern relates to your own treatment as an employee, you should raise it under the existing grievance or harassment procedures.

- If a client has a concern about services provided to him/her, it should be raised as a complaint to the Council (Tel: 01633 644 644).
- Complaints of misconduct by County Councillors are dealt with under a separate procedure. For further information please contact the Council's Monitoring Officer. Tel: 01633 644 644.
- Complaints about school matters are dealt with under a separate procedure called the School's Complaints Policy and should be addressed to the Chair of Governors.

### **WHO CAN RAISE A CONCERN UNDER THIS POLICY?**

The policy applies to all:

- Employees of Monmouthshire County Council
- Employees of contractors working for the Council/School.
- Those providing services under a contract or other agreement with the Council/School
- Voluntary workers working with the Council/School

### **SAFEGUARDING WHISTLEBLOWERS – OUR ASSURANCES TO YOU**

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 an individual who maliciously raises a matter they know to be untrue.

### **YOUR LEGAL RIGHTS**

This policy has been written to take account of the Public Interest Disclosure Act 1998 (PIDA) which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions and in the public interest. The Act makes it unlawful for the Council/School Governing Body to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

### **HARASSMENT AND VICTIMISATION**

The Council / School Governing Body is committed to good practice and high standards and to being supportive of you as an employee/worker.

The Council/School Governing Body recognises that the decision to report a concern can be a difficult one to make. If you honestly and reasonably believe what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer, your colleagues and those for whom you are providing a service.

The Council/School Governing Body will not tolerate any harassment or victimisation of a whistle-blower (including informal pressures) and will take appropriate action to protect you

when you raise a concern in accordance with the PIDA provisions, and will treat such harassment and victimisation as a serious disciplinary offence or in the case of contractors, a breach of contract.

### **CONFIDENTIALITY**

Whilst a qualifying disclosure is expected to have substance, it is not expected that the employee raising the disclosure will need to prove it is true. It is the responsibility of the Designated Officer.

All disclosures will be treated in confidence and every effort will be made not to reveal your identity if that is your wish, unless disclosure is required by law.

In some circumstances, for example in disciplinary processes, it may not be possible to take action as a result of your disclosure without your help, so you may be asked to come forward as a witness. If you agree to this, you will be offered advice and support.

The Council / School Governing Body will not place employees under pressure to give their name and will give due consideration to proceeding with investigating the concern on the basis of an anonymous allegation.

### **ANONYMOUS ALLEGATIONS**

This policy encourages you to put your name to your allegation whenever possible - anonymous concerns are much less powerful and it will be much more difficult to provide feedback to you. Nonetheless anonymous concerns will be considered under this whistleblowing policy especially concerns raised relating to the welfare of children or vulnerable adults. In relation to determining whether an anonymous allegation will be taken forward the Council / School Governing Body will take the following factors into account:

- the seriousness of the issue raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources, and obtaining information provided.

The provisions of the Data Protection Act 1998 must be observed during the process, particularly in disclosure, use and processing of personal information.

### **UNTRUE ALLEGATIONS**

If an allegation is made which it is believed to be in the public interest but it is not confirmed by further enquiry or by an investigation, no action will be taken against the person who raised the initial concern. If, however, the enquiry/investigation shows that untrue concerns were malicious and/or vexatious or made frivolously or made for personal gain, then the Council / School Governing Body will consider taking appropriate action which could include disciplinary action.

## SUPPORT FOR YOU

The Council/School Governing Body have a duty of care to their employees. Support for the individuals involved in this process is key to fulfilling this duty. Any concern that is raised will be taken seriously.

For those individuals who raise concerns and for those individuals who may have concerns raised about them, the Council/ School Governing Body will do all it can to help you throughout the process. Support for employees will include the offer of access to welfare counselling and medical advice and support. Individuals will be advised to contact their Trade Union representative, or a work place colleague (not involved in the area of work to which the concern relates) for additional support. Individuals will also be offered an additional point of contact for support during the process.

Any meetings that may be required as part of the process can be arranged away from the workplace if necessary and individuals have the right to be accompanied by their trade union representative or work based colleague.

Unless there are legal reasons why this cannot be done, you and the person against whom allegations are made will be kept informed of the progress and outcome of any investigation by the Designated Officer.

## HOW TO RAISE A CONCERN

Who to raise the concern with:

<b>CONCERN RELATES TO:</b>	<b>REPORT TO (who becomes the Designated Officer)</b>
General concern / Member of staff/ colleague/Volunteer	Line Manager/Head-teacher
Line Manager	Head of Service / Head teacher
Head of Service / Head teacher	Chief Officer / Chair of Governors
Chief Officer	Chief Executive (Tel: 01633 644 644)
Chair of Governors	Vice Chair of Governors
Chief Executive	Leader of the Council (Tel: 01633 644 644)

Whole Governing Body	Chief Officer, Children & Young People (Tel: 01633 644 644)
County Councillor	Monitoring Officer (Tel: 01633 644 644)
Malpractice about child/children in a school*	Chief Officer, Social Care & Health (Tel: 01633 644 644)
Malpractice about an adult(s) at risk*	Chief Officer, Social Care & Health (Tel: 01633 644 644)

\*If you feel that your concern has not been adequately addressed or if you think it will not be adequately addressed you should raise your concern with the Chief Officer, Social Care & Health as a whistleblowing concern.

If your concern is a safeguarding concern about a child or adult at risk (rather than about potential malpractice), this should be reported to Monmouthshire Children's Services or Adult Services respectively via normal Child Protection /Protection of Vulnerable Adults (POVA) processes. Tel: 01633 644 644.

### **PROCEDURE FOR MAKING A WHISTLEBLOWING ALLEGATION**

If possible the concern should be put in writing for the avoidance of doubt. It should set out:

- the background and history of the concern;
- give names, dates and places where possible,
- an explanation of the reason for the concerns.

If you feel unable to put the matter in writing you can still raise your concern verbally. Also if you feel that you cannot express your concerns with the Council / School Governing Body, you can also ask your Trade Union representative or work based colleague to raise the matter on your behalf and/or to support you in raising the concern. The above table provides a guide to whom a concern can be raised with - advice and support on this can be sought from People Services HR (01633 644644), the Monmouthshire Legal department (01633 644 064) or your Trade Union representative.

If the concern needs to have Police or other statutory authority involvement, the whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process. This must take place even if the statutory authorities take the decision not to pursue a criminal investigation.

Normally, the person who the concern is raised with, or reported to, becomes the Designated Officer. The Designated Officer is responsible for making initial enquiries about the matter and for keeping all parties informed of progress and advising of the outcome. It may be necessary for the Council/ School Governing Body to appoint a person other than the person to whom the allegation or concern was raised with/reported to.

### **WHAT THE COUNCIL/SCHOOL GOVERNING BODY WILL DO**

A key principle for the Council/School Governing Body will be the public interest. In order to be fair to all employees, initial enquiries will be made by the Designated Officer / person appointed to decide whether an investigation is appropriate and if so what form it should take.

The concern raised may require the following:

- enquiry internally in the Council / School
- need to be passed to the Police if it relates to alleged criminal activity
- need to be passed to Internal Audit, if the complaint is about financial management or financial propriety
- need to be referred through established child protection/POVA procedures

At this stage concerns / allegations are neither considered founded or unfounded pending the investigation if deemed necessary.

### **TIMESCALES**

The Designated Officer or person appointed by the Council / School Governing Body to look into whistleblowing allegation will normally provide a written acknowledgement to you **within 5 working days** (except in the case of anonymous allegations):

- acknowledging the concern has been received
- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response
- advising of the support available whilst matters are looked into
- telling you whether further investigations will take place and if not, why not

The Designated Officer or person appointed will write to you and the individual against whom the concern has been raised to acknowledge receipt and to indicate that the procedures have been commenced.

Depending on the nature of the allegation / concern, provision of a final response may take longer than 5 working days. If this is the case, the Designated Officer or person appointed will notify all individuals in writing providing an indication when the enquiry will be completed.

Where possible, enquiries will be completed within **10-15 working days** from the date of receipt of the initial written response from the Designated Officer/person appointed



If the enquiry extends beyond the timescales above all individuals concerned will be notified in writing by the Designated Officer or person appointed, providing an indication when the enquiry will be completed.

The Designated Officer /person appointed might investigate the concerns raised themselves or the Designated Officer might appoint an independent investigator to do so. As part of this process, the person who investigates the concerns raised will:

- Look into the concern - seeking evidence and interviewing witnesses as necessary.
- Maintain confidentiality wherever possible (but there is not a 100% guarantee that the whistle-blower can remain anonymous).
- If appropriate, refer the matter to Audit, if the complaint is about financial management or financial propriety in schools
- If appropriate, for concerns of criminal behaviour refer the matter to the Police.
- If appropriate, for concerns of child protection or vulnerable adults, refer the matter through the established child protection/POVA procedures.

The amount of contact time between you and the Designated Officer or person appointed to consider and/or investigate the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of your information. It is likely that you will be interviewed to ensure that your disclosure is fully understood.

Any meeting with you can be arranged away from the workplace, if needs be, and a trade union representative or work based colleague may accompany you for support. You need to be assured that your disclosure has been properly addressed. Unless there are legal reasons why this cannot be done, you will be kept informed of the progress and outcome of any investigation.

Following completion of the enquiry/investigation process, the Designated Officer or independent investigator will make a written report normally within **5 working days**. This report will contain findings and make recommendations for the Designated Officer (if an independent investigator has been appointed) or the appropriate committee of the School Governing Body to consider

The report will not contain your name as the whistle-blower, unless you have expressly stated that you wish to be named.

On conclusion of any investigation, you and the person against whom the allegation is made, will be told the outcome of the investigation and what action has been done/proposed. If no action is to be taken, the reason for this will be explained. In addition, matters raised as part of the investigation may:

1. Be referred to the Police
2. Be referred to the External Auditor
3. Form the subject of an independent inquiry

4. Be referred to an alternative policy (e.g., Disciplinary Policy or Grievance Policy)
5. Some concerns may be resolved as an agreed action without the need for investigation

#### **HOW THE MATTER CAN BE TAKEN FURTHER**

This policy is intended to provide you with a route within the Council/School to raise concerns. However, if you do not wish to raise concerns internally or if the concern has not been dealt with satisfactorily, the following are possible contact points. If you take the matter outside the Council/ School, you should ensure that you do not disclose confidential information unless that disclosure is privileged and relevant to the concern raised. Anyone proposing external disclosure should seek independent legal advice or contact the Public Concern at Work organisation.

#### External Contacts regarding whistleblowing:

- GOV.UK website: [www.gov.uk/whistleblowing](http://www.gov.uk/whistleblowing)
- ACAS: Call 0300 123 1100
- Citizen's Advice. Website: [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)
- Public Concern at Work, [www.pcaw.org.uk](http://www.pcaw.org.uk). <https://twitter.com/WhistleUK>. <https://www.facebook.com/publicconcernatwork>, Tel: 020 7404 6609
- Education Workforce Council [www.ewc.wales](http://www.ewc.wales). Tel: 02920 460099
- Care and Social Services Inspector for Wales [www.cssiw.org.uk](http://www.cssiw.org.uk). Tel: 0300 7900 126
- The Auditor for Wales: <https://www.wao.gov.uk/whistleblowing> Tel: 02920 320500
- Children's Commissioner for [www.childcomwales.org.uk](http://www.childcomwales.org.uk). Tel: 0808 801 1000
- The Office of the Information Commissioner: <https://www.ico.gov.uk>. Tel: 02920 678400
- The Police
- Your local councillor or AMs or MPs
- Health & Safety Executive

#### **REVIEW OF THE POLICY**

The effectiveness of the policy will be monitored in the following ways:

- The policy will be the responsibility of the Head of People, in conjunction with the Monitoring Officer and Internal Audit, to review ensuring legal compliance and best practice
- The Monitoring Officer will be responsible for reporting on whistleblowing incidents and number of cases will be reported annually by the Monitoring Officer. The report will include a summary of the concerns raised, to which directorate /school they related. The report will not include any employee names.
- Periodic internal audits of the effectiveness of the whistleblowing arrangements will be undertaken, including
  - Record of the number and types of concerns and the outcome of investigations

- Feedback from individuals who have used the arrangements including staff awareness, trust and confidence in the arrangements
- Any complaints of victimisation
- Any complaints of failures to maintain confidentiality
- Any relevant litigation

The outcomes from the monitoring of the policy will be reported to Senior Leadership Team (SLT) and People Board.

## SCRUTINY AND EXECUTIVE PROTOCOL

The Scrutiny and Executive protocol is a guide for elected Members and other parties outlining the interface between Scrutiny and the Executive and the procedural elements that underpin the relationship. Further information on Scrutiny will be provided in the Scrutiny handbook (under development). The protocol draws on the relevant sections of the Constitution of Monmouthshire County Council, which can be found on the Council's website at [www.monmouthshire.gov.uk](http://www.monmouthshire.gov.uk)

### Monmouthshire's Scrutiny Arrangements

Scrutiny will act as a 'critical friend' to the Cabinet and other decision makers in order to promote better services, policies and decisions. Through their work, Scrutiny and Cabinet will agree to operate within the values of the Council: Openness, Teamwork, Flexibility and Fairness. In compliance with S21 Local Government Act 2000 and Paragraphs 8 and 9 of Schedule 1 to the Act, Select Committees will;

- Consider reports and make recommendations to inform and advise the Cabinet or Council or other decision-making bodies on improvements to policies and service delivery.
- Hold the Cabinet to account for decisions, performance, risk management and budget management.
- Enable the public to engage in the work of the Council by holding public meetings to inquire into matters of local concern.

Monmouthshire has four Select Committees, each with distinct terms of reference, which are detailed in Article 6 of the Constitution:

- Children and Young People's Select Committee
- Adults Select Committee
- Economy and Development Select Committee
- Strong Communities Select Committee

### General Roles

Within their terms of reference Select Committees will:

1. Review and / or scrutinise
  - (a) decisions or actions taken,
  - (b) policies or processes in connection with the discharge of any of the Council's functions;

2. Make reports and / or recommendations to the Council meeting and /or the Cabinet on the discharge of any of the Council's functions;
3. Consider any matter affecting the area or its inhabitants and make recommendations to any decision making body as appropriate.

### **Specific Functions**

Select Committees may:

1. Assist the Council in reviewing service delivery and performance through in-depth analysis;
2. Review and scrutinise the decisions made by and the performance of the Cabinet and / or Committees and / or other Constitutional Bodies and the Council and / or any Chief Officers both in relation to individual decisions and over time;
3. Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and / or particular service areas
4. Conduct research, community and other consultation in the analysis of service or policy issues and possible options;
5. Consider and implement mechanisms to encourage and enhance community participation in the development of policy or the improvement of services;
6. Question Members of the Cabinet and / or Committees and / or other Constitutional bodies and appropriate Officers about their proposed policies, decisions and performance
7. Make recommendations to the Cabinet and / or appropriate Committee and / or other constitutional bodies and / or Council arising from the outcome of the Scrutiny process;
8. Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Board and local people about their activities and performance;
9. Question and gather evidence from any person outside of the Authority (with their consent).
10. Assist the Council and the Cabinet in the review of its budget and policies by in-depth analysis of policy issues;
11. Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that collaborative working enhances the interests of local people;

### **Setting the Work Programme**

At the beginning of the Scrutiny year (September), each Select Committee will agree an outline work programme for the year in consultation with the relevant senior Officers and take into account the views of the public and of partner agencies. Topics suggested for Scrutiny should be

considered in line with the Scrutiny work programme topic selection criteria, the aim being to identify significant topics that will address a significant concern, will deliver a specific outcome and will add value to the work of the Council.

The most recent version of the Select Committee work programme will be reported to each Select Committee meeting to enable the Committee to review its content and include new items and to define the arrangements required for the next meeting. The updated Scrutiny Forward Work Programme will be presented by the Select Committee Chairs to meetings of the Council's Co-ordinating Board for the purpose of ensuring the clarity of topics being scrutinised and to avoid potential duplication in efforts. All Scrutiny work programmes will be made publicly available.

### **Setting the Agenda**

Individual agenda items, other than standing items, are to be determined in the first instance by the work programme that is agreed by the relevant Select Committee. The Select Committees agree their work programmes and the decisions to consider additional items or defer planned are made at the discretion of the chair in consultation with the Scrutiny Manager.

The purpose of Scrutiny is to add value to the work of the Council. For this reason any items 'to note' i.e. that do not require a specific response from the Select Committee will be emailed to the Select Committee Members 'For Information', instead of being included on the agenda.

### **Evidence Gathering**

Select Committees are entitled to gather evidence in connection with any review or inquiry they undertake as part of their agreed work plan. The Select Committee shall adopt methods of gathering evidence to inform their deliberations. These include, but are not limited to, task and finish groups, holding enquiries, going on site visits, conducting public surveys, holding public meetings, commissioning research, hearing from witnesses and appointing advisors and assessors. The knowledge of Councillors is also a valuable source of evidence and should be considered as part of each review / inquiry.

Select Committees shall be entitled to pay the reasonable fees and/or expenses of any individual or organisation assisting it, with the exception of Officers or Members of the Authority. Evidence gathering activity should not duplicate any other similar activity being undertaken by the authority or by other local agencies.

## **Attendance at Select Committees**

A large part of evidence gathering will be through witnesses invited to give account directly to the Select Committee. Cabinet Members and Officers will not be expected to attend all Select Committee meetings, however, Select Committees are entitled under s21 of the Local Government Act 2000 to require any Member of the Executive or any Senior Officer to attend before it to give account for any matter within their responsibility or remit, particularly relating to:

- any particular decision
- the extent to which the actions have been taken to implement Council policy
- their performance

and it is the duty of those persons to attend if so required. Where in exceptional circumstances, the Member or Officer is unable to attend on the required date; the Select Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

When a Select Committee wishes to invite a Cabinet Member, Officer or another individual to a meeting, it will:

- Offer a minimum notice of 2 weeks
- Clearly outline the reason that the individual has been requested to attend and the likely areas upon which they are be expected to answer questions
- Identify whether any papers are required to be produced

Where individuals are required to attend before the Select Committee, as in the case of Officers or Members, the Chair shall ensure that those assisting the Select Committee by giving evidence are treated with courtesy and respect. A witness guide is currently being developed which will outline what to expect when attending a Select Committee.

Witnesses contributing evidence to Select Committees will be provided with feedback and whether further information is required as part of the Scrutiny.

## **Select Committee Meeting Procedure**

Robust Scrutiny depends on effective questioning which relies on effective preparation. The meetings of Select Committees will operate as follows:

1. Main agenda items will be identified at the previous meeting in line with the agreed work programme. At this point potential witnesses and broad themes should be considered.
2. Prior to the meeting all Select Committee Members should be engaged in raising and discussing possible questions by email. The chair and vice chair of the Committee will facilitate this process.
3. A pre-meeting for all Select Committee Members will be held for 15 minutes immediately before the Select Committee meeting. The purpose is to ensure that Members are fully prepared for the Select Committee meeting and that the questioning strategy is clear.
4. During the Select Committee meeting, the chair will be responsible for ensuring that questioning is effective and that the Select Committee achieves its objective.
5. Officers are invited to attend for their item and shall not be expected to remain at the meeting unless agreed with the Chair.
6. At the close of the meeting, witnesses will be asked to leave to enable Select Committee Members to discuss their conclusions any recommendations arising from the meeting. These conclusions and recommendations will be reported to the relevant Cabinet Member(s) in the form of a Chairs' Letter. The session should also be used to review the effectiveness of the meeting and identify ways that future meetings could be improved.

### **Attending Call-in Meetings**

The following arrangements apply to Call-in meetings:

- The Committee will invite the relevant Cabinet Member and/or Officer i.e. (the decision-taker) and any other Senior Officers the Committee considers appropriate to the meeting.
- In line with the Call-in Mechanism outlined in the constitution, the Committee is required to meet within 15 working days of the publication of the decision.
- The Committee will endeavour to offer appropriate notice to witnesses required to attend and will as far as possible ensure the scheduling of the Call-in meeting facilitates their attendance.
- In inviting Officers to attend, the relevant Chief Officer responsible will be consulted as a matter of courtesy.
- Scrutiny Committees welcome the views of additional Officers, however, to ensure consistency, transparency and openness, such Officers should indicate in advance of the agenda despatch (i.e. 3 working days prior to the meeting) that they wish to attend, with reasons for their attendance.
- Additional Officers should advise the Scrutiny Manager that they wish to attend, which will be discussed and agreed with the Chair



of the Select Committee. It is the discretion of the Committee to allow such Officers to take part in the meeting.

## **Responding to Scrutiny's Recommendations**

### **Chairs Letters**

Select Committees will agree outcomes of their meetings and detail the conclusions and any recommendations arising from any Select Committee meeting. The Select Committee may recommend amendments to a strategy or policy at their meeting and the Cabinet Member or Officer may accept the amendments at the meeting, which will be formally minuted.

The Chair may also formally raise concerns via a Chairs Letter directed to the relevant Cabinet Member(s) in person after the meeting has closed. In this instance, the Cabinet Member should respond in writing to the Select Committee within one month indicating whether the recommendation needs to be referred and what action (if any) they intend to take.

### **Task and Finish Group Inquiries**

Select Committees may undertake an in-depth review, which will normally take a number of months and be conducted according to an agreed scoping report, the findings being shared publicly in a findings report.

Select Committees will abide by the following principles when conducting in-depth reviews or Task and Finish Group inquiries:

- Involve the Cabinet Member at the commencement / early stages of a review to inform them of the terms of reference of the Task and Finish Group and the lines of inquiry that will be pursued.
- Additional opportunities to involve the Cabinet Member throughout the review if felt appropriate.
- Recommendations will follow logically from conclusions which will be clearly evidenced by reference to the findings of the review. Recommendations should not reflect unsupported personal opinion or political views. At this stage advice will be sought from the relevant Officers about the legal and financial implications of draft recommendations.
- When a review is nearing completion, invite the Cabinet Member

to a meeting to discuss preliminary findings and if the Select Committee feels appropriate, test the viability of recommendations they wish to make.

- When a Scrutiny report has been agreed by Members of the Task and Finish Group, convene meeting with Cabinet Member to discuss the report's key findings and recommendations prior to the report being discussed at a public meeting (i.e. Select Committee).

If a Select Committee cannot agree on one single final report to the Executive then up to one minority report may be prepared and submitted for consideration with the majority report.

Once a Select Committee report has been agreed by the appropriate Select Committee, it will be submitted to the relevant Cabinet Member and published on the Council's website.

The report will then be scheduled in the Cabinet Forward Planner to be presented to a meeting of Cabinet within six weeks of it being agreed by the Select Committee.

The Chair of the relevant Select Committee will present the Report and accompanying recommendations to Cabinet. The relevant Cabinet Member will receive the Report on behalf of Cabinet but will not be required to respond to each of the recommendations individually at Cabinet.

Cabinet will be requested to ***“receive the report and consider the key findings and recommendations, responding to the relevant Select Committee within a 3 month period as to whether they accept (in part) or reject (in part) the Committee's recommendations together with rationale and actions that will be taken”***.

The Cabinet Member is responsible for:

- Meeting with Officers once they have received the Scrutiny report to draft a response to the Select Committee based upon the Cabinet Response Template (detailed in Appendix A).
- After agreeing a draft response with Officers, reporting the draft response to the Cabinet for adoption.
- Forwarding the Cabinet response to the Select Committee (following adoption by the Cabinet) and attending a Select Committee to discuss their response.

Select Committees will be responsible for monitoring progress against the recommendations and ensuring the return of the Cabinet Member to the Select Committee within a defined timescale.

### Appendix A

<b>XYZ Task and Finish Group – Cabinet Response</b>			
<b>Scrutiny's Recommendation</b>	<b>Accept (plus Action)</b>	<b>Partially Accept (plus Rationale and Action)</b>	<b>Reject (plus Rationale)</b>
<b>R1)</b>			
<b>R2)</b>			
<b>R3)</b>			
<b>R4)</b>			
<b>R5)</b>			
<b>R6)</b>			

R7)			
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## **PROTOCOL ON MEMBER AND OFFICER RELATIONS**

### **1. Introduction**

The purpose of this Protocol is to guide Members and Employees of the Council in their relations with one another.

Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.

The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

### **2. Roles of Members**

- a) Members undertake many different roles. Broadly these are:
- b) Members express political values and support the policies of the party or group to which they belong (if any).
- c) Members represent their electoral division and are advocates for the citizens who live in the area.
- d) Members are involved in active partnerships with other organisations as community leaders.
- e) Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
- f) Members help develop and review policy and strategy.
- g) Members monitor and review policy implementation and service quality.
- h) Members are involved in quasi-judicial work through their Membership of regulatory committees.

### **3. Roles of Employees**

Briefly, Employees have the following main roles:

- a) Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.
- b) Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.
- c) Initiating policy proposals.

- d) Implementing agreed policy.
- e) Ensuring that the Council always acts in a lawful manner.

#### 4. **Respect and Courtesy**

For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

##### Undue Pressure

It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.

In their dealings with Employees (especially junior Employees), Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.

A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. *(The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code.)*

##### Familiarity

Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.

For these reasons close personal familiarity must be avoided.

### Breach of Protocol

If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Chief Officer responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.

If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Head of Service or Chief Officer. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

### **5, Provision of Advice and Information to Members**

Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [five] working days of the receipt of the enquiry.

The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.

The Access to Information Procedure Rules of this Constitution explain the position with regard to access to papers relating to the business of a Council body.

The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right

to “a roving commission” to examine any documents of the Council. Mere curiosity is not sufficient.

The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service’s resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.

It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division. (Further details are contained in the Local Member Consultative Charter, which is annexed to this Protocol).

If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.

Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.

Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the “need to know”. Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member’s enquiry that any individual would be entitled to receive such documentation. The Council’s Information Officer will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

## **6. Confidentiality**

In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or



information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:

- a) he/she has the consent of a person authorised to give it;
- b) he/she is required by law to do so;
- c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- d) the disclosure is:
  - (i) reasonable and in the public interest; and
  - (ii) made in good faith and in compliance with the reasonable requirements of the authority.

Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

Information and correspondence about an individual's private or business affairs will normally be confidential.

Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.

Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.

If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

## **7. Provision of Support Services to Members**

The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

### **Correspondence**

Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

### **Media**

Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Chief Officer or Head of Service concerned or ask the Press Office to do so.

## **8. The Council's Role as Employer**

In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

## **9. Political Activity**

There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

In summary, such employees are prevented from:

- (a) being a Member of Parliament, European Parliament or local authority;
- (b) acting as an election agent or sub-agent for a candidate for election as a Member of any the bodies referred to in (a);

(c) being an Officer of a political party or any branch of a political party or a Member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:

- (i) participate in the general management of the party or branch;  
or
- (ii) act on behalf of the party or branch in dealings with persons other than Members of the party;

(d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in (a);

(e) speaking to the public with the apparent intent of affecting public support for a political party; and

(f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles, e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

Usually the only Employees involved in attending group meetings will be the Chief Executive, Chief Officers and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.

Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Chief Officers/Heads of Service, and not to individual Members of the Council whatever office they might hold.

Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance

on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

#### **10. Sanctions**

Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.

Complaints about any breach of this protocol by an Officer may be referred to the relevant Chief Officer, the Chief Executive or the Head of Legal Services.

#### **11. Conclusion**

It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.

### **Local Member Consultative Charter**

1. The Council is committed to providing its Elected Members with accurate, helpful and timely consultation, advice and information in relation to any matters of any significance or sensitivity which relate to their particular Electoral Division and where circumstances render it appropriate to involve a Local Member.
2. Chief Officers and staff will be continually vigilant to identify such matters and ensure that Local Members are informed accordingly. This will also include any matter which could impact upon the neighbouring areas of other Members.
3. Chief Officers will ensure that all correspondence/enquiries from Local Members are dealt with promptly and if necessary Members will be kept advised of progress.
4. Appropriate Chief Officers will ensure that, where the Council's Constitution allows, Local Members will be invited to meetings and receive the necessary documentation.
5. Any matter of significance or sensitivity which relates to a particular Electoral Division or Divisions will be discussed with the Local Member(s) concerned before being submitted for consideration by the Cabinet or other Council Body. This will provide the opportunity for early awareness and allow a local perspective to be obtained.
6. Chief Officers and staff will regularly brief appropriate Cabinet Members on service and partnership issues and developments and will use such occasions to help identify any potential local issues.
7. Details of any petitions received which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the Leader. Local Members will be kept informed on the progress/outcomes of such petitions.
8. Subject to any restrictions caused by commercial, legal or personal confidentiality, copies of all correspondence with Community/Town Councils and the Public Services Ombudsman which relate to matters of any significance or sensitivity in a particular Electoral Division will be sent to the Local Member concerned.
9. Copies of all correspondence with AMs, MPs and MEPs which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. Copies will also be provided to the Leader.
10. Chief Officers and staff will ensure that as much local service information as possible is provided to local Members.

11. Services will provide every Member with an Officer Contact guide for the services they provide, including where appropriate local contacts.
12. Wherever appropriate, Services will make Local Members aware of and invite them to service events and activities in their area. This will include strict adherence to the arrangements that have been agreed for the official opening/launch of Council projects, schemes, exhibitions etc.
13. In certain instances, both Members and Officers will receive an enquiry which relates to a matter in a particular area. In order to ensure consistency of approach in these circumstances, Officers will agree with the Member(s) concerned a single response to such enquiries.
14. As part of a continual review of the Charter's effectiveness, the co-operation of Members is sought in the responsible use at all times of advice and information that is provided to them and Members are encouraged to advise Officers of the information requirements and of any local circumstances or sensitivities which might have a bearing on the Council's work.

## 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)

#### **4. 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.

**APPENDIX****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.

## **PART 6 – SCHEDULE OF MEMBERS’ REMUNERATION (F)**

### **Monmouthshire County Council**

#### **MEMBERS’ SCHEDULE OF REMUNERATION**

This Scheme is made under the Local Government (Wales) Measure 2011 with regard to Independent Remuneration Panel for Wales (IRPW) Regulations which apply to payments made to members and co-opted members of local authorities.

#### **1. Basic Salary**

- 1.1 A Basic Salary shall be paid to each elected Member of the Authority.
- 1.2 In accordance with the Regulations, the rate of the Basic Salary shall be reviewed annually as determined by the Independent Remuneration Panel for Wales.
- 1.3 Where the term of office of a Member begins or ends other than at the beginning or end of a year, his/her entitlement to the Basic Salary will be pro-rata.
- 1.4 No more than one Basic Salary is payable to a Member of the Authority.

#### **2. Senior Salaries & Civic Salaries**

- 2.1 Members occupying specific posts shall be paid a Senior Salary as set out in **Schedule 1**.
- 2.2 In accordance with the Regulations, the rates of Senior Salaries and Civic Salaries shall be reviewed annually as determined by the Annual or Supplementary Report of the Independent Remuneration Panel for Wales.
- 2.3 Only one Senior Salary or Civic Salary is payable to a Member of the Authority.
- 2.4 A Member of the Authority cannot be paid a Senior Salary and a Civic Salary.
- 2.5 All Senior and Civic Salaries are paid inclusive of Basic Salary.
- 2.6 A Senior Salary may not be paid to more than the number of members specified by the Independent Remuneration Panel for Wales in its Annual Report and cannot exceed fifty percent of the total membership of the authority, except to include a temporary Senior Salary office holder providing temporary cover for the family absence of the appointed office holder.
- 2.7 A Member of the Authority in receipt of a Senior Salary **cannot** receive a salary from any National Park Authority (NPA) or Fire and Rescue Authority (FRA) for which he/she has been nominated.

- 2.8 Where the term of Senior Salary or Civic Salary of a Member begins or ends other than at the beginning or end of a year, his/her entitlement to the Salary will be pro-rata.

### **3. Election to Forgo Entitlement to Allowance**

- 3.1 A Member may, by notice in writing delivered to the Proper Officer of the authority, personally elect to forgo any part of his/her entitlement to any salary, allowance or fee payable under this Scheme from the date set out in the notice.

### **4. Suspension of a Member**

- 4.1 Where a Member of the Authority is suspended or partially suspended from his or her responsibilities or duties as a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, the part of the Basic Salary payable to him/her in respect of that period for which he or she is suspended will be withheld by the Authority (Section 155 (1) of the Measure).
- 4.2 Where a Member in receipt of a Senior Salary is suspended or partially suspended from being a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, the Authority must not make payments of the Member's Senior Salary for the duration of the suspension (Section 155 (1) of the Measure). If the partial suspension relates only to the specific responsibility element of the payment, the member may retain the Basic Salary.

### **5. Repayment of salaries, allowances or fees**

- 5.1 Where payment of any salary, allowance or fee has been made to a Member of the Authority or Co-opted Member in respect of any period during which the Member concerned:
- (a) is suspended or partially suspended from that Members'/Co-opted Members' duties or responsibilities in accordance with Part 3 of the 2000 Act or regulations made under that Act;
  - (b) ceases to be a Member of the Authority or Co-opted Member; or
  - (c) is in any other way not entitled to receive a salary, allowance or fee in respect of that period,

the Authority will require that such part of the allowance as relates to any such period be repaid.

## 6. Payments

- 6.1 Payments of all allowances will be made by the Head of Democratic Services by *direct bank credit* in instalments of one-twelfth of the Member's annual entitlement on the 20<sup>th</sup> day of the month.
- 6.2 Where payment has resulted in a Member receiving more than his/her entitlement to salaries, allowances or fees the Authority will require that such part that is overpayment be repaid.
- 6.3 All payments are subject to the appropriate tax and National Insurance deductions.

## 7. Care Allowance

- 7.1 Care Allowance shall be paid to a Member or Co-opted Member, who has caring responsibility for dependent children or adults, or a personal care requirement, provided the Member incurs expenses in the provision of such care whilst undertaking 'approved' council duties.
- 7.2 Care Allowance applies in respect of children who are aged 15 or under and other persons for whom the Member or Co-opted Member can show that care is required. If a Member or Co-opted Member has more than one dependent the Member may claim more than one allowance, provided the Member can demonstrate a need to make separate arrangements for care.
- 7.3 Eligible Members may claim Care Allowance for actual and receipted costs up to a maximum amount not exceeding that determined by the Independent Remuneration Panel as set out in **Schedule 1**. All claims for Care Allowance should be made in writing to Democratic Services detailing times, dates and reasons for claim. Receipts are required for both informal and formal care arrangements.

## 8. Family Absence

- 8.1 Members are entitled under the provisions of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 to a period of family absence, during which if they satisfy the prescribed conditions they are entitled to be absent from authority meetings.
- 8.2 When taking family absence Members are entitled to retain a basic salary irrespective of their attendance record immediately preceding the commencement of the family absence.
- 8.3 Should a senior salary holder be eligible for family absence they will be able to continue to receive their senior salary for the duration of the absence.

8.4 If the authority agrees that it is necessary to make a substitute appointment to cover the family absence of a senior salary holder the Member substituting will be eligible if the authority so decides to be paid a senior salary.

8.5 If the paid substitution results in the authority exceeding its maximum number of senior salaries, an addition to the maximum will be allowed for the duration of the substitution.

## **9. Co-optees' payments**

9.1 A Co-optees' daily fee (with a provision for half day payments) shall be paid to Co-optees, provided they are statutory Co-optees with voting rights.

9.2 Payments will take into consideration travelling time to and from the place of the meeting, reasonable time for pre meeting preparation and length of meeting (up to the maximum of the daily rate).

9.3 The Monitoring Officer is designated as the "appropriate officer" and will determine preparation time, travelling time and length of meeting, the fee will be paid on the basis of this determination.

9.4 The Monitoring Officer can determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before four hours has elapsed.

9.5 A half day meeting is defined as up to 4 hours.

9.6 A full day meeting is defined as over 4 hours.

9.7 The daily and half day fee for the Chairpersons of the Standards Committee and Audit Committee, as determined by the Independent Remuneration Panel, is set out in **Schedule 1**.

9.8 The daily and half day fee for other statutory Co-optees with voting rights, as determined by the Independent Remuneration Panel, is set out in **Schedule 1**.

## **10. Travel and Subsistence Allowances**

### **10.1 General Principles**

10.2 Members and Co-opted Members may claim travelling expenses when travelling on the Authority's business for 'approved duties' as set out in **Schedule 2**. Where Members travel on the Authority's business they are expected to travel by the most cost effective means. In assessing cost effectiveness regard will be given to journey time. A Member who does not travel by the most cost effective means may have his/her claim abated by an appropriate amount.

- 10.3 Where possible Members should share transport.
- 10.4 The distance claimed for mileage should be the shortest reasonable journey by road from the point of departure to the point at which the duty is performed, and similarly from the duty point to the place of return.
- 10.5 The rates of Members' Travel and Subsistence Allowances are set out in **Schedule 3** and are subject to annual review by the Independent Remuneration Panel for Wales.
- 10.6 Where a Member is suspended or partially suspended from his or her responsibilities or duties as a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, any travel and subsistence allowances payable to him/her in respect of that period for which he or she is suspended or partially suspended must be withheld by the Authority.

## **11. Travel by Private Vehicle**

- 11.1 The Independent Remuneration Panel for Wales has determined that the maximum travel rates payable should be the rates set out by Her Majesty's Revenue & Customs for the use of private cars, motor cycles and pedal cycles plus any passenger supplement.
- 11.2 The mileage rates for private vehicles as determined by the Independent Remuneration Panel for Wales are set out in **Schedule 3**.
- 11.3 Where a Member makes use of his/her private vehicle for approved duty purposes, the vehicle must be insured for business use. Proof of appropriate insurance must be provided to the Authority on request.

## **12. Travel by Public Transport**

### **12.1 Rail/Coach Travel**

Unless otherwise authorised rail tickets will be second-class.

Democratic Services will purchase requisite rail and coach tickets for Members in advance of journeys. In the unlikely event that a Member needs to purchase a ticket directly, payment will be reimbursed upon production of the used ticket and/or a receipt.

## 12.2 Taxi Fares

Taxi fares will only be reimbursed where their use has been authorised for cases of urgency, where no public transport is reasonably available, or a Member has a particular personal need. Re-imburement will be upon receipt only.

## 12.3 Air Fare (optional)

Travel by air is permissible if it is the most cost effective means of transport. Authorisation of the Head of Democratic Services is required and tickets will be purchased by *Democratic Services*.

## 12.4 Travel Abroad

Travel abroad on the Authority's business will only be permitted where authorised by Head of Democratic Services. Democratic Services will arrange travel and accommodation.

## 12.5 Other Travel Expenses

Members will be entitled to reimbursement of toll fees, parking fees, overnight garaging and other necessary travel associated expenses. Re-imburement will be upon receipt only.

## 13. Overnight Accommodation

13.1 Overnight stays will only be permitted where the Authority's business extends to two days or more, or the venue is at such a distance that early morning or late night travel would be unreasonable. All overnight stays must receive prior authorisation from the Head of Democratic Services.

13.2 Overnight accommodation will be booked by Democratic Services. Wherever possible the overnight accommodation will be pre-paid or invoiced.

13.3 Direct booking of overnight accommodation by a Member will only be permitted in the event of an emergency. Reimbursement will only be made upon the production of a receipt and will be at a level deemed reasonable and not in excess of the rates set out in **Schedule 3**.

## 14 Subsistence Allowance

14.1 The day subsistence rate to meet the costs of meals and refreshments in connection with approved duties (including breakfast when not provided as part of overnight accommodation) is set out in **Schedule 3**. The maximum daily rate covers a 24 hour period and can be claimed for any meal that is relevant, providing such a claim is supported by receipt(s)



14.2 No provision is made for subsistence claims within the County Borough.

#### **15. Claims and Payments**

15.1 A claim for travel and subsistence allowances must be made in writing before the specified payroll deadline for that calendar month in which entitlement to allowances arises and must be accompanied by the relevant receipts.

15.2 Allowances will be paid by the Head of Democratic Services by *direct bank credit*.

#### **16. Pensions**

16.1 The Authority shall enable its Members who are eligible to join the Local Government Pension Scheme.

#### **17. Compliance**

17.1 In accordance with the Regulations, the Authority must comply with the requirements of the Panel in respect of the monitoring and publication of payments made to members and co-opted members as set out in **Schedule 4**.

**Members are reminded that expense claims are subject to both internal and external audit.**

**SCHEDULE 1****SCHEDULE OF REMUNERATION 2016-17**

<b>MEMBERS ENTITLED TO BASIC SALARY</b>	<b>ANNUAL AMOUNT OF BASIC SALARY</b>
<p>The following named elected members of the authority</p> <p>D. Blakebrough  J. Becker  L. Brown  A. Davies  D. Dovey  L. Dymock  A. Easson  M. Feakins  L. Guppy  R. Harris  J. Higginson  G. Howard  D.W.H. Jones  L. Jones  M. Lane  R. Roden  V.E. Smith  F. Taylor  T. Thomas  J. Treharne  A.C. Watts  J. Watkins  A.E. Webb  K.G. Williams  S. Woodhouse</p>	£13,400

	<b>SENIOR SALARIES ENTITLEMENTS (includes basic salary)</b>		<b>ANNUAL AMOUNT OF SENIOR SALARY</b>
	<b>ROLE</b>	<b>MEMBER</b>	
1.	Leader	P. Fox	£43,100
2.	Deputy Leader	B. Greenland	£30,100
3.	Cabinet Member - Resources	P. Murphy	£26,100

	<b>SENIOR SALARIES ENTITLEMENTS (includes basic salary)</b>		<b>ANNUAL AMOUNT OF SENIOR SALARY</b>
	<b>ROLE</b>	<b>MEMBER</b>	
4.	Cabinet Member – Transport	S.B. Jones	£26,100
5.	Cabinet Member – Social Justice and Community Development	S. Jones	£26,100
6.	Cabinet Member - Children & Young People	R. John	£26,100
7.	Cabinet Member – Social Care, Safeguarding and Health	P. Jones	£26,100
8.	Cabinet Member – Governance	P. Jordan	£26,100
9.	Chairperson of Licensing Committee	B. Strong	£20,100
10.	Chairperson of Planning Committee	R. Edwards	£22,100
11.	Chairperson of Audit Committee	P. White	£22,100
12.	Chairperson of Democratic Services Committee	D. Evans	£20,100
13.	Chairperson of Strong Communities Select	J. Pratt	£22,100
14.	Chairperson of Economy & Development Select	P. Pavia	£22,100
15.	Chairperson of Adults Select	S. Howarth	£22,100
16.	Chairperson of Children and Young People Select	M. Groucutt	£22,100
17.	Leader Of The Largest Opposition Group	D. Batrouni	£22,100
A maximum of 17 senior salaries for Monmouthshire County Council may be paid and this has not been exceeded.			

<b>ENTITLEMENT TO CIVIC SALARIES</b>		<b>ANNUAL AMOUNT OF CIVIC SALARY</b>
<b>ROLE</b>	<b>MEMBER</b>	
Civic Head (Mayor / Chair)	M. Powell	£19,100
Deputy Civic Head (Deputy Mayor / Chair)	P. Clarke	£14,100

<b>ENTITLEMENT AS STATUTORY CO-OPTees</b>		<b>AMOUNT OF CO-OPTees ALLOWANCES</b>
<b>ROLE</b>	<b>MEMBER</b>	
Chairperson Of Standards Committee	T. Auld	£256 Daily Fee £128 ½ Day Fee

ENTITLEMENT AS STATUTORY CO-OPTees		AMOUNT OF CO-OPTees ALLOWANCES
ROLE	MEMBER	
Chairperson of Audit Committee	P. White	£256 Daily Fee £128 ½ Day Fee
Statutory Co-Optees - Standards Committee, Children and Young People Select	<u>Standards:</u> <ul style="list-style-type: none"> <li>• R. Stow</li> <li>• R. Mconigle</li> <li>• G. Preece</li> <li>• M. Sutton</li> <li>• I. Cameron</li> </ul> <u>Scrutiny</u> <ul style="list-style-type: none"> <li>• A. Daly</li> <li>• M. Fowler</li> </ul>	£198 Daily Fee £99 ½ Day Fee
Statutory Co-optees -ordinary members of Standards Committee who also chair Standards Committees for Community Councils	N/A	£226 Daily Fee £113 ½ Day Fee

MEMBERS ELIGIBLE TO RECEIVE CARE ALLOWANCE	
All Members	Up to a maximum of £403 per month

**SCHEDULE 2****Approved duties: -**

- attendance at a meeting of the Authority or of any committee of the Authority or of any body to which the Authority makes appointments or nominations or of any committee of such a body;
- attendance at a meeting of any association of authorities of which the Authority is a member;
- attendance at any other meeting the holding of which is authorised by the Authority or by a committee of the Authority or by a joint committee of the Authority and one or more other Authorities;
- a duty undertaken for the purpose of or in connection with the discharge of the functions of Cabinet;
- a duty undertaken in pursuance of a standing order which requires a Member or Members to be present when tender documents are opened;
- a duty undertaken in connection with the discharge of any function of the Authority which empowers or requires the Authority to inspect or authorise the inspection of premises;
- attendance at any training or developmental event approved by the Authority or its Cabinet;

**SCHEDULE 3****Mileage Rates**

All sizes of private motor vehicle Up to 10,000 miles Over 10,000 miles	45 pence per mile 25 pence per mile
Private Motor Cycles Pedal Cycles	24 pence per mile 20 pence per mile
Passenger supplement	05 pence per mile

**Subsistence Allowance**

The day subsistence rate is up to a maximum of £28 and covers a 24 hour period and can be claimed for any meal if relevant provided such a claim is supported by receipts.

Re-imbusement of alcoholic drinks is not permitted.

### **Overnight Stay**

The maximum allowances for an overnight stay are £200 for London and £95 for elsewhere. A maximum of £30 is available for an overnight stay with friends or relatives whilst on approved duty.

## **SCHEDULE 4**

### **Compliance**

- The authority will arrange for the publication on the council's website the total sum paid by it to each member and co-opted member in respect of salary, allowances, fees and reimbursements not later than 30 September following the close of the year to which it relates. In the interests of transparency this will include remuneration from all public service appointments held by elected members.
- The authority will publish on the council's website a statement of the basic responsibility of a councillor and role descriptors for senior salary office holders, which clearly identify the duties expected.
- The authority will publish on the council's website the annual schedule of Member Remuneration not later than 31 July of the year to which the schedule refers.
- The authority will send a copy of the schedule to the Independent Remuneration Panel not later than 31 July of the year to which the schedule refers.
- The authority will maintain records of members'/co-opted members' attendance at meetings of council, cabinet and committees and other approved duties for which a member/co-opted member submits a claim for reimbursement.
- The authority will arrange for the publication on the council's website of annual reports prepared by members.
- When the authority agrees a paid substitution for family absence it will notify the Independent Remuneration Panel within 14 days of the date of the decision of the details including the particular post and the duration of the substitution.